



Gatwick Airport Northern Runway Project

The Applicant's Response to Deadline 5 Submissions –
Response to JLAs' EMG Framework Paper

Book 10

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1 Overview

- 1.1.1 The Applicant has prepared this document to respond to the Joint Local Authorities' (JLAs') submission at Deadline 5 which provided further background as to why they consider an "Environmentally Managed Growth (EMG) Framework" to be necessary in respect of the potential impacts of the Northern Runway Project (NRP) [[REP5-093](#)].
- 1.1.2 The JLAs' submission built on the introductory EMG paper they submitted at Deadline 4 [[REP4-050](#)] to which the Applicant responded at Deadline 5 [[REP5-074](#)].
- 1.1.3 It was noted as part of the Applicant's Deadline 5 response that, whilst it appreciated the full detail of the JLAs' EMG proposal was still to follow, it did not anticipate such detail materially altering the basis for and detail of its submissions made in that response document, principally that:
- 1.1.3.1. The JLAs have failed to explain why any EMG framework would be reasonable or necessary to make the NRP development acceptable in planning terms as required by the relevant policy tests;
 - 1.1.3.2. By contrast, the Applicant has made extensive submissions in this examination as to why its proposed mitigation approach is effective and proportionate to the potential impacts of the NRP; and
 - 1.1.3.3. To the extent the JLAs have concerns about the detail of the individual mitigation documents proposed by GAL, then such concerns can be considered and, where necessary, addressed in those documents.
- 1.1.4 As anticipated, the further detail has not moved the Applicant's position.
- 1.1.5 Whilst much of the JLAs' most recent submission focusses on the process/operational elements of their proposed EMG framework (drawing heavily on the GCG proposals put forward at Luton Airport – to which the Applicant provided explanatory context in its D5 submission), there are elements within its paper which have more general relevance to the mitigation documents submitted in respect of the NRP.
- 1.1.6 In particular, their concerns appear to focus on the perceived absence of controls in respect of a trajectory towards compliance with targets/commitments made as well as a contention that oversight of controls should be applied and enforced at a local level, rather than through the separate independent bodies proposed by

GAL, notwithstanding the explanations provided by GAL in respect of these thematic criticisms to date.

- 1.1.7 The Applicant does not propose to repeat its previous submissions from its Deadline 5 paper [\[REP5-074\]](#) as to why an EMG framework is not necessary or appropriate in the context of the NRP – those remain unchanged following the further detail provided by the JLAs in their most recent submission. However, the Applicant does consider it would be helpful for the examination to address the JLAs' direct or inferred criticisms of gaps within its mitigation proposals and to explain why against the individual topics, such matters identified are either (i) already a feature of the Applicant's mitigation package or (ii) unnecessary.
- 1.1.8 Properly understood, the Applicant's proposed approach to each topic is robust, and the JLAs have not made out their case that the only secure future is one in which the JLAs control the growth of the airport.

2 Context

- 2.1.1 The JLAs' note that their approach is based on the GCG framework approach put forward by the local authority owned and promoted Luton Airport DCO, and the JLAs describe its key elements as:

- a. *"A commitment to link environmental performance to growth at the airport;*
- b. *Limits on environmental effects in key areas where the impacts manifestly increase with growth;*
- c. *Ongoing monitoring of the actual environmental effects of expansion and operations at the airport in four key areas;*
- d. *Independent oversight of environmental effects associated with the operation of the airport; and*
- e. *A series of processes to be followed as environmental effects reach thresholds defined below these limits;*

The JLAs consider that a similar framework of controls is required for the NRP development and that there should be effective and robust thresholds for monitoring impacts and limits, with appropriate measures to either slow down or prevent further growth of air traffic movements should growth give rise to any anticipated or actual exceedance of such limits.

In order to be effective controls would be defined in terms of threshold level comprising:

- a limit set by reference to the environmental effects assessed and which should not be exceeded (Limit);*
- a threshold at which a management plan should be in place to ensure that the Limit cannot be breached (Level 2); and*
- a threshold above which extended monitoring and reporting would be required and an initial explanation of the steps that the airport operator will take to avoid an exceedance of the Limit (Level 1)."*

(Sections 3.1 to 3.3 of [REP5-093](#)).

2.1.2 The JLAs provide further clarification in Section 5, including by reference to Luton's GCG figures, that airport throughput growth "*could continue unrestricted where impacts are below a Level 1 Threshold, following which there would be a requirement for enhanced monitoring and increasing levels of control on growth aimed at preventing a Limit being breached. This contrasts with the approach proposed by the Applicant, which proposes no action unless a specific target or commitment has not been met, save for aircraft noise that relies on the accuracy of forward forecasts and retrospective controls two years in arrears.*"

2.1.3 Sections 5.3 to 5.5 then note:

"...the airport operator would be required to continually monitor and regularly report on the extent of the environmental effects associated with the airport in the four areas, namely noise, air quality, greenhouse gases and surface access...

If monitoring were to indicate at any point that a limit was in danger of being breached, then a plan must be produced by the Applicant to explain how that breach will be avoided. The plan would be subject to approval by an independent scrutiny body. If any one of the environmental limits were breached, further growth should be stopped, mitigation will need to be implemented and ultimately, airport growth would be constrained until environmental performance returned to below the defined limits.

It is proposed that an independent Environmental Scrutiny Group (ESG) would oversee this process, comprised of representatives from neighbouring districts and county councils and other specialist interests to be agreed with the Applicant. This group should be supported and advised by four Technical Panels (one for each of the environmental topic areas) comprised of specialist

consultants/technical officers to advise on the efficacy of the Airport operator's monitoring and its implications..."

- 2.1.4 In view of this context, the Applicant now considers the JLA's criticisms and requirements against the existing mitigation and control package put forward by the Applicant.

3 Air Quality

- 3.1.1 The JLAs acknowledge (at Section 8.1 of their EMG D5 submission) that the air quality assessment for the Project (Chapter 13 of the Environmental Statement ([APP-038](#))) predicts that there will not be any likely significant effects arising as a result of the Project, nor any exceedances of the air quality objective values.
- 3.1.2 It is important to note in this context that the assessment was also informed by a series of conservative assumptions (detailed throughout **ES Appendix 13.4.1: Air Quality Assessment Methodology** [\[APP-158\]](#) and further expanded in **Supporting Air Quality Technical Notes to the SoCGs** [\[REP1-050\]](#)) regarding the rate of the decarbonisation of vehicular traffic, with Government policy (principally through the Transport Decarbonisation Plan) and carbon reduction targets necessitating a transition to cleaner vehicles that will have clear correlative air quality benefits, so adding additional assurance to the conclusions of the assessment and the absence of any potential likely significant effects.
- 3.1.3 This context contrasts with that at Heathrow Airport in the period 2018-20 when the concept of EMG was first considered (in relation to their 3rd runway proposal) where air quality already exceeded objective limits in areas local to the airport and there were legitimate reasons to propose a regime of close scrutiny on the incremental effects of growth.
- 3.1.4 Notwithstanding the very different position forecast at Gatwick, the JLAs state at Section 8.2 – *"Nonetheless, it is proposed that the Framework would monitor and compare predicted pollutant concentrations against actual monitored pollutant concentrations. The Framework would provide a series of thresholds and limits that would be triggered should pollutant concentrations be higher than predicted to protect local residents."*
- 3.1.5 There is no attempt to challenge the Applicant's assessment conclusions, or to justify why such an EMG framework is considered 'necessary for planning purposes' in that context. The introductory line to the section notes – *"the airport is a significant source of pollutant exposure to residents and the Project has the potential to increase the exposure of residents further"*. However, it is obviously

the purpose of carrying out the EIA to test and provide assurance against exactly that potential impact. The JLAs' submission appears to render the EIA carried out in respect of AQ redundant in practice, which is not a position supported by law or policy.

- 3.1.6 In any case and notwithstanding that there is no assessed potential for any significant effects to arise, the Applicant has still proposed through its draft s106 Agreement to produce an Air Quality Action Plan to detail the measures that it has taken to improve air quality, as well as commitments to a continuation of and enhancement to the existing monitoring regime present today and programmes of study on that data, the type of power units to be used at aircraft stands and a contribution toward a UFP study if the Government decides that national standards are necessary. In recognition of the JLAs' own air quality responsibilities, GAL is proposing to share and publish data and support regular engagement including updates on any changes to air quality thresholds (see Schedule 1 of the draft DCO s106 Agreement (Doc ref. 10.11)). In planning terms, the Applicant's proposals are a more than sufficient response to the air quality assessment.
- 3.1.7 Against that background, there is no credible argument to suggest the Project's air quality impacts come remotely close to justifying the imposition of a regime as administratively and operationally complex or burdensome as the EMG framework proposed by the JLAs. Such controls are wholly disproportionate, not necessary to make the Project acceptable in planning terms and are plainly not fairly and reasonably related in scale and kind to the development (applying the language of paragraphs 4.9 and 4.10 of the ANPS).

4 Greenhouse Gas (GHG) Emissions

- 4.1.1 The JLAs helpfully acknowledge (at section 9.1 of their EMG D5 submission) that the Applicant's commitments as part of its Carbon Action Plan (CAP) are in line with Government policy, particularly its commitments in respect of Scope 1 and 2 Airport Buildings and Ground Operations (ABAGO) emissions to be net zero by 2030 and then to achieve zero emissions by 2040.
- 4.1.2 The JLAs do not identify any element of the Applicant's mitigation contained within the CAP as being contrary to Government policy or there to be any gap when compared to the same. Importantly, they acknowledge that Scope 3 aviation emissions are beyond the direct control of the Applicant and do not propose to incorporate such emissions within their EMG framework, with the inference being that they are satisfied this is an impact best managed by the

Government at a national level in line with their existing policy commitments under the Jet Zero Strategy (with which the Applicant agrees – as explained in its ISH6 submissions ([REP4-032](#))).

- 4.1.3 This means that approximately 96% of the GHG emissions associated with the airport under future operations with the Project implemented (para 16.12.1 of Chapter 16 of the ES ([APP-041](#))) would not be subject to the EMG framework the JLAs are envisaging.
- 4.1.4 Chapter 16 of the ES accounts for 100% of the GHG emissions generated by the NRP and does not find any likelihood of a significant environmental effect. Establishing a complex regime to manage the residual 4% of the emissions could not meet any test of planning necessity.
- 4.1.5 The JLAs proposals also do not propose to incorporate the emissions arising from the construction of the Project, leading to a further reduction in the residual emissions subject to their proposed framework. For completeness, and in the absence of the reference having been made in the JLAs' submission – the Project's construction emissions are mitigated through the CAP through both an overall emissions quota limit, and through the Applicant's commitment to be PAS 2080 certified, which collectively serve to comprehensively mitigate the potential for construction emissions (see Section 3.3 of the CAP ([APP-091](#))).
- 4.1.6 Accordingly, the JLAs' proposed EMG framework purports to focus and control only two emissions areas – ABAGO and surface access transportation, with their purported scope described in Table 1, within Section 9, of their Deadline 5 submission.
- 4.1.7 Firstly, in respect of ABAGO, it is unclear what benefit the JLAs consider any prescribed trajectory which extrapolates intervals between today, 2030 and 2040 would have in terms of ensuring the Applicant's commitments in respect of those latter dates are met.
- 4.1.8 The CAP is in effect from the implementation of the DCO (Requirement 21 of the draft DCO), which accordingly triggers the monitoring and reporting process set out within section 4.4 of its terms. This obliges GAL to submit a copy of the Monitoring Report (as defined in that section) to the Government each year, demonstrating progress against and compliance with its commitments. Paragraph 4.4.6 expressly requires GAL to produce, publish and submit to the Government an action plan in circumstances where the Applicant considered the Monitoring Report indicated insufficient progress was being made towards complying with the commitments.

- 4.1.9 It cannot be credibly argued that the Government in receiving the annual monitoring information and in the context of delivering its own complementary (and in many ways, co-dependent) Jet Zero strategy, would fail to direct GAL to take the necessary steps to comply with its commitments were it necessary to do so. The necessary trajectory is achieved by the escalating decarbonisation to accord with the net zero 2030 and zero emission 2040 commitments, which in turn support the Government's wider net zero 2050 target.
- 4.1.10 Further, in the context of any concerns regarding the retrospective effect of monitoring and any limitations on being able to subsequently 'correct' a breach – clearly this is not relevant in respect of ABAGO emissions which are, by definition, within GAL's direct control and there would be a number of measures capable of being implemented that could have that corrective effect if necessary (with examples set out under the relevant commitment in the CAP).
- 4.1.11 In respect of surface access emissions – the Applicant has explained previously how its Surface Access Commitments (SACs) (Doc Ref. 5.3 v3) and particularly the sustainable transport mode share commitments in respect of passenger and staff travel to and from the airport serve to mitigate the surface access emissions that could otherwise result. Whilst the Applicant has comparatively less control over this source of emissions (by comparison to the Scope 1 and 2 ABAGO and construction emissions), it acknowledges the importance of promoting sustainable transport measures and has designed its SACs in this context. The Applicant has commented in respect of the SACs in this document below, and does not duplicate the same in respect of its relevance to GHG here; however, it confirms its position that the efficacy of the SACs ensures no additional 'control' or process in respect of surface access emissions is necessary to be repeated in the CAP or any theoretical EMG framework proposal.
- 4.1.12 As with aviation, the Government has express responsibility for surface access emissions and has a plan in place to manage a trajectory towards net zero (the Transport Decarbonisation Plan).
- 4.1.13 The West Sussex authorities and the Surrey authorities do not find it necessary to impose an EMG-type regime on the GHG emissions of surface access relating to any other land use or development in their counties and have no policy requirement to that effect. The fact that the Luton authorities have chosen to volunteer such an approach for their own airport is not a justification for imposing one here.
- 4.1.14 There is no logical basis on which to suggest a panel made up of local authority representatives is better placed than the Government to assess GAL's

compliance with its GHG commitments and determine any additional steps necessary. That process is exactly what is envisaged by the Government's own Jet Zero Strategy already and would, in any event, be needed in respect of the Government's carbon reduction/net zero targets. The Government has taken the responsibility for ensuring the aviation sector decarbonises in line with the UK wide net zero 2050 target. The Jet Zero Strategy and Transport Decarbonisation Plan set out strategies in this respect, including the monitoring Government undertakes to ensure the emissions reduction is achieved. The Government is self-evidently best placed to ensure GAL's compliance with the CAP commitments.

- 4.1.15 Climate Change is a uniquely global issue, to which relevant countries have made their own national commitments. The UK Government's carbon reduction targets and the role of the Jet Zero Strategy to ensure the aviation sector's decarbonisation in support of the achievement of such targets have been well-rehearsed in this examination already, but it is plainly not appropriate to in some way overlap or confuse that reporting/enforcement channel by also scoping in local authority regulation.

5 Surface Access

- 5.1.1 The JLAs' position in respect of surface access in the context of EMG proposals is slightly unclear; however, the Applicant understands the position to be that the surface access limits they will propose are considered to be a necessary safeguard to overlap with the SACs which the Applicant has committed to through Requirement 20 of the DCO. This is the inference taken from Section 10.3 of the JLA's D5 submission:

"The SAC is proposed to be secured under Requirement 20 of the DCO, providing an additional level of assurance and security to stakeholders as to the Applicant's commitment to its specified surface access outcomes. It is nonetheless considered that surface access should form part of the Framework to ensure that, as a fallback, growth at the airport can be managed should the surface access commitments not deliver the change in passenger and staff behaviour sufficient to meet the mode share targets."

- 5.1.2 GAL has previously responded to the concerns raised by the JLAs in respect of the detail of the commitments in the SACs and its monitoring and reporting process, and submitted an update to the SACs at Deadline 3 which incorporated a number of edits to address those concerns (and related comments from National Highways) (Surface Access Commitments - Version 2 [[REP3-028](#)]), and

most recently in the revised SACs submitted at Deadline 6 (Doc ref 5.3 v3) which incorporate further amendments requested by interested parties. It is not obvious from reading the JLA's EMG submission that they have read, or at least understood, the edits previously made or the scope of the SACs as a mitigation document as there are a number of incorrect statements made in respect of the SACs and which are material to what the JLAs submit are the advantages of their EMG framework by comparison.

5.1.3 By way of example, in sections 10.5 to 10.7 of their D5 submission the JLAs state –

"Fundamental to concerns is the fact that the SACs only require the airport operator to identify further actions retrospectively, once monitoring shows the targets have been missed and allows a significant period of time to pass where the airport, is potentially, not complying with its commitments to sustainable surface access..."

"As currently drafted, it is possible for two successive Annual Monitoring Reports to continue to show that the mode share commitments have not been met and GAL is only required to prepare a further action plan..."

5.1.4 Section 6 to the SACs sets out the monitoring and reporting process and, in summary terms, requires:

5.1.4.1. GAL to prepare an Annual Monitoring Report (AMR) setting out the information prescribed by Commitment 16, with the first AMR required to be produced at least 6 months prior to the commencement of dual runway operations;

5.1.4.2. The AMR is to be provided to the Transport Forum Steering Group (TFSG) (consisting of GAL, local highway and planning authorities, National Highways, Network Rail, and various other transport operators and agencies as well as business and passenger representatives) prior to publication so that it can provide a response, with both the AMR and the TFSG's response then published on the GAL website;

5.1.4.3. In addition to the AMR, GAL will report quarterly to the TFSG, who will also be given access to data collected for the purposes of monitoring except those which are commercially sensitive;

5.1.4.4. In addition to the AMR and the quarterly reporting to the TFSG, GAL will continue to produce an Action Plan in line with its commitments in

the Airport Surface Access Strategy (the ASAS-AP). The ASAS-AP presents GAL's plan for achieving the targets set out in its existing ASAS and the Decade of Change, and will also support the achievement of the mode share commitments in the SACs. The ASAS-AP will be reviewed with the TFSG quarterly and reported on at the annual meeting of the Gatwick Area Transport Forum;

- 5.1.4.5. If the AMR shows that the mode share commitments have not been met or, in GAL's or the TFSG's reasonable opinion, suggests they may not be met (having regard to any circumstances beyond GAL's control which may be responsible), GAL will in consultation with the TFSG prepare an action plan to identify such additional interventions which are considered reasonably necessary to correct such actual or potential non-achievement of the mode share commitments. The action plan shall be subject to approval by the TFSG (such approval not to be unreasonably withheld).
- 5.1.4.6. If two successive AMRs continue to show that the mode share commitments have not been met or, in GAL's or the TFSG's reasonable opinion, suggests they may not be met (having regard to any circumstances beyond GAL's control which may be responsible), GAL will prepare a further action plan (the "SAC Mitigation Action Plan") and will provide this to the TFSG in order that the TFSG can consider, comment on and approve or reject the SAC Mitigation Action Plan. The TFSG may propose additional or alternative interventions it believes to be necessary to achieve the mode share commitments (the "Proposed Measures"). GAL must incorporate the Proposed Measures into the SAC Mitigation Action Plan; or provide valid reasons why it does not consider they are necessary to achieve the mode share commitments; or offer suggestions for alternative actions where there is evidence they will achieve or exceed the same goal. GAL will implement the measures in the SAC Mitigation Action Plan once approved with the TFSG.
- 5.1.4.7. Where the TFSG does not agree with any reasons put forward by GAL for the non-inclusion of the proposed measures, it must give GAL its reasons in writing. GAL must submit the SAC Mitigation Action Plan and the Proposed Measures to the Secretary of State.
- 5.1.4.8. The Secretary of State may approve the SAC Mitigation Action Plan or direct GAL to include in a revised SAC Mitigation Action Plan the

Proposed Measures or such additional or alternative interventions it considers reasonably necessary to achieve the mode share commitments having had regard to the materials submitted including the representations submitted by the TFSG and any relevant evidence, data or information submitted by GAL. GAL must implement the measures in the SAC Mitigation Action Plan approved by the Secretary of State unless otherwise agreed with the TFSG.

- 5.1.5 As can be seen from this extensive monitoring, reporting and governance process it is factually incorrect to state that GAL are only obliged to identify *“further actions retrospectively, once monitoring shows the targets have been missed and allows a significant period of time to pass where the airport, is potentially, not complying with its commitments to sustainable surface access”*:
- 5.1.5.1. The monitoring applies from prior to the commencement of dual runway operations and so will identify performance against the mode share targets years in advance of their commitment being triggered (noting they are set as applying from the third anniversary of commencement);
 - 5.1.5.2. Regardless of the output of the monitoring, GAL is obliged to continue to produce an Action Plan in line with its existing commitments in respect of the ASAS and which will be reviewed quarterly by the TFSG;
 - 5.1.5.3. The TFSG can also direct an action plan to be produced where it considers GAL is not on track to meeting its mode share commitments, with such action plan subject to approval by the TFSG and GAL obliged to implement such approved plan; and
 - 5.1.5.4. This all applies in addition to the separate and subsequent step which allows the TFSG or, where necessary, the SoS, to direct specific action be taken in circumstances where two successive AMRs continue to show that the mode share commitments have not been met or are considered to show that GAL is off-trajectory.
- 5.1.6 Again, it is unclear whether the JLAs have not understood GAL's updated SACs submitted at Deadline 3; however, for the reasons submitted above – their concerns in respect of deficiencies/inadequacies on the monitoring process and requirement to produce action plans where necessary are not supported by the detail of the SACs.

- 5.1.7 In particular, there is clear procedure prescribed to be followed in circumstances where GAL is 'off-track' in terms of compliance with its mode-share targets. There is no need to be prescriptive as to what a non-compliant trajectory means, as the process allows for GAL and the TFSG to respectively initiate action plan discussions, and there is a relatively limited window between when dual runway operations commence and the compliance required (3rd anniversary) which makes the utility of a 'formal' trajectory target limited in any case.
- 5.1.8 The residual concerns on this topic appear to be the common concerns across the topics generally – the make-up of the 'independent body' to whom GAL will report/engage and the absence of a 'growth' control linked to performance.
- 5.1.9 Considering the independent body element first, it is considered that the TFSG's constitution already fulfils the JLA's stated intention of an 'Environmental Scrutiny Group' made up of representatives from neighbouring and country councils, as well as individual specialists, all supported by Technical Panels made up of specialist consultants/technical officers.
- 5.1.10 The TFSG's current membership and constitution is set out in the TFSG Terms of Reference (February 2023) submitted into Examination at Deadline 2 in Appendix 3 of the draft Section 106 Agreement [[REP2-004](#)], its purpose/scope is supported by Government aviation policy as set out in Department for Transport's (DfT) Aviation Policy Framework (March 2013), and is in operation at the airport to this effect already today.
- 5.1.11 Gatwick has consistently out-performed other major UK airports over the last 10-15 years, seeing considerable growth in the percentage of trips using sustainable modes, where other London airports have experienced lower or little improvement in mode shares. GAL's constructive relationship with the TFSG has clearly been a material contributing factor in delivering that success. Simply, there is no rational evidence to support a proposition that the TFSG would not be able/best placed to oversee GAL's performance against its SACs and hold GAL to account where necessary. For completeness, in circumstances where GAL failed to comply with the SACs it would be in breach of the corresponding requirement to the draft DCO (requirement 20), enabling enforcement action to be pursued by the JLAs in that extremely unlikely event..
- 5.1.12 Similarly, there is no evidence that supports it is any way necessary or proportionate to condition continued growth at the airport to performance against the SACs. As above, GAL has consistently out-performed other major UK airports in respect of increasing public transport mode share. This has all been achieved without any such condition or planning incentive/restriction – it is a by-

product of GAL's own commitments and drive to improve sustainable transport to/from the airport, and a product of the collaboration with stakeholders, including the TFSG.

- 5.1.13 In circumstances where GAL was off-trajectory to compliance (including on-going compliance after the initial milestone), the appropriate course of action is to agree and then implement the additional steps required to correct that non-compliance. This will necessarily require the consultation/collaboration envisaged by the SACs to ensure the most appropriate and integrated solution is put forward (e.g. it may simply be increasing the parking/forecourt pricing to disincentivise driving to the airport; however, it may also need to be parallel to a new bus or coach route, or staff travel incentive to achieve the joined-up effect desired).
- 5.1.14 Transport interventions often necessarily require sensible coordination between multiple parties to achieve the optimum solution for the user of the network. This is why the TFSG was set up. Were GAL's growth to be conditioned to achieving the mode share targets, this could incentivise more unilateral measures to be employed to ensure the trajectory towards compliance is achieved, but which may have a less efficient/effective overall outcome for the transport network and its users (for instance, by relying exclusively on parking/forecourt pricing, at the expense of additional public transport interventions).
- 5.1.15 Stepping back, whilst the SACs are unique to the NRP – the concept of mode share commitments and travel plans is not unusual in infrastructure and development planning. They are often secured as conditions to planning permissions and the Applicant's commitments to produce monitoring reports and action plans are also consistent with that genre of mitigation commitment. In contrast, there is no consented, nor operational, precedent for the constraint the JLAs suggest is necessary. The implication of their position would be that no further growth at the airport would be permitted in circumstances where GAL were 0.1% under their passenger or staff mode share targets, even were the wider network to be operating without issue. That is clearly an absurd position to promote, and one which has no support in policy.
- 5.1.16 It is understood the JLA's contention is that if GAL were under-performing against its mode share commitments, then it must follow that the transport impacts of airport-related traffic will be greater than those which it has assessed in its application. Even were that simple proposition to be correct (and GAL disputes that is the case for the reasons explained in response to Action Point 1 of ISH8 on **Surface Access Commitments** (Doc ref. 10.49.2) it does not support

a position that operations at the airport must then be curtailed. The NRP is categorised as a nationally significant infrastructure project, and the Government recognises the nationally important economic and other benefits that aviation brings. Automatically preventing further growth, and so losing those benefits, is a blunt tool and would be contrary to the Government's position and damaging to the UK.

- 5.1.17 Rather, what should be required in the event of any non-compliance, and what is proposed, is immediate prescribed and escalatory action, mandated on GAL in collaboration with, but scrutinised by the TFSG and then ultimately the SoS if agreement on the required steps cannot be achieved. There is no ceiling on what the SoS can impose on GAL in any mitigation plan were the circumstances to merit such intervention, and GAL is accepting of this principle. It has not made these mode share commitments lightly and the criticisms it has variously received from interested parties in the examination that they are either too speculative or not ambitious enough suggest the level is appropriate.
- 5.1.18 Further and as part of, and to complement, the SACs – GAL has proposed significant specific surface transport mitigation (including the £10million bus and coach services fund and the Sustainable Transport Fund) and contingent mitigation in the form of the Transport Mitigation Fund in the event that there are any unforeseen or unintended impacts arising from the Project. The TMF secures an additional pot of £10m to be drawn from, applying the process set out in its corresponding provisions in Schedule 3 of the s106 Agreement (Doc ref. 10.11).
- 5.1.19 The aggregate surface access mitigation put forward by the Applicant as part of this scheme is comprehensive (including significant works to the SRN, which will provide improvements for the performance of the surrounding local highway). To the extent there are residual concerns about the efficacy of that mitigation, or any perceived gaps then the Applicant is happy to hear such representations and will address them where appropriate as it has done in updates to the SACs already.
- 5.1.20 However, it is not a valid criticism to state that notwithstanding the (i) assessment information which does not identify any significant effects, (ii) the mitigation secured, and the robustness of the process set out, in the SACs, (iii) the committed financial obligations and (iv) GAL's historically favourable performance by comparison to sustainable transport at other UK airports, that any form of corresponding growth control should still nonetheless be required as a 'fall-back' or safeguard.

6 Aircraft Noise

- 6.1.1 The JLAs' comments in respect of slot allocation, the declaration of capacity, the position in respect of 'grandfather rights' and on the Noise Envelope proposed by the Applicant, fundamentally misunderstand the processes which the Applicant has committed to put in place. They seek to portray a situation of the Airport having no control over how it forecasts and releases capacity, and moreover how it responsibly runs its business. The comments are also blind to the commercial realities of how the Airport will need to be managed so that it continues to operate successfully and without issues of non-compliance, which would give rise to adverse critical business impacts and reputational issues. For obvious reasons the Applicant would not allow those issues to arise, and it has put in place very effective systems and processes to ensure that they do not arise.
- 6.1.2 A detailed summary of the Airport's business planning processes and how that five year future forecasting will be updated and used annually to identify proposed capacity releases and how those will ensure the airport remains in compliance with the Noise Envelope contour limits into the future is provided at Appendix A to the Action Points arising from ISH8 (Doc Ref. 10.50.4) in relation to noise – Note on how the Applicant will plan to stay in the Noise Envelope and why this will be effective (the "Noise Envelope Note").
- 6.1.3 To assist to illustrate why the criticisms made by the JLAs in relation to the Noise Envelope proposed by the Applicant are not valid, and moreover why the EMG proposals are not necessary and represent an inferior approach to controlling air noise emissions from the use of the Airport, we discuss below comments in Section 4 and Section 7 of the JLAs' Deadline 5 Submission.
- 6.1.4 Paragraphs 4.1 – 4.3 of the JLAs submission provides a summary of the process of slot allocation and of the how 'grandfather rights' arise in connection with the use of slots. The key criticism that the JLAs' paper seeks to establish in relation to the Applicant's Noise Envelope proposals is that the Airport has no way of controlling what slots are released, and no oversight which ensures that the Airport cannot declare an amount of capacity which could lead to a breach of the Noise Envelope contour limits, which could then not be remedied as 'grandfathered' slots could not be withdrawn.
- 6.1.5 As is explained in the Noise Envelope Note, the Airport will be forecasting five years into the future year on year, and this process will start two years before the NRP begins to operate. That forecasting will be aligned with the Airport's

business planning, which it is necessary to do to ensure the business can operate successfully with clarity and plan how it is going to operate in the market.

- 6.1.6 In reporting those five-year forecasts year on year, the Applicant will be identifying, for each of those future years, the anticipated air noise emissions associated with the relevant level of declared capacity and the anticipated fleet mix and how that aligns with the applicable noise envelope limit. Monitoring of actual performance year on year will also be undertaken, which has the primary purpose of verifying the forecasting undertaken in the previous year and informing any margin of error that must be accounted for, to ensure the accuracy and reliability of the future forecasting as a noise control measure. All of that information will be submitted to and independently verified by the CAA, who have the required resource and expertise to undertake this independent reviewer role.
- 6.1.7 If any exceedance is identified in any future year within the annual five year forecasts the Applicant will be restricted from releasing any further capacity from the Airport in the next season following the identification of the forecasted future breach, and until such time as the measures which ensure that breach does not occur have been approved by the CAA.
- 6.1.8 Examples of timescales for this and why this will be effective to identify and require actions to prevent future breaches before they occur, including where those are identified by the CAA following their review, or indeed confirmed by the Secretary of State following any appeal, are detailed at paragraphs 2.5.9 – 2.5.18 of the Noise Envelope Note.
- 6.1.9 Taking this approach will ensure a situation is avoided where more capacity than can be accommodated within the Noise Envelope contour limits is permitted, and the position that the JLAs seek to advance regarding the level of slots with grandfather rights being more than can be accommodated within the Noise Envelope contour limits will not come to pass.
- 6.1.10 The Applicant also highlights, as is explained at paragraph 2.2.6 of the Noise Envelope Note, at no point in the operation of the Airport to date have all slots been taken up through historic rights, meaning there have always been slots available in the slot pool, which adds flexibility to remain within capacity constraints.
- 6.1.11 Where any future breach is forecasted the Applicant will also have multiple tools at its disposal to address those, and the characterisation that all the Applicant is proposing is to limit releases of capacity and to apply an ATM cap to manage air noise emission is not correct. As explained at paragraph 2.6.3 of the Noise

Envelope Note, the sorts of actions available to the Applicant to manage compliance with the Noise Envelope may include:

6.1.11.1. Pre-emptive management

6.1.11.1.1. Longer term forecasts (5 years) updated each year and taking account of changing forecast environment in terms of traffic mix, fleet planning and capacity planning;

6.1.11.1.2. Altering charging structures to help influence operation of quieter aircraft;

6.1.11.1.3. Introduce restrictions on operation of noisier aircraft to stop new capacity being taken by them – noise efficient slots;

6.1.11.2. Season ahead controls

6.1.11.2.1. Restricting the amount of capacity released in any season conditional on meeting quota targets.

6.1.11.2.2. Introduction of QC quota allocation for airlines to limit the airport to a seasonal QC limit as a proxy for the Noise Envelope

6.1.11.2.3. Apply QC restrictions on any new capacity allocated

6.1.11.3. In season controls

6.1.11.3.1. Require action from airlines who are forecast to exceed their QC quota to take action to bring it down.

6.1.11.3.2. Last resort – prevent airlines from operating services which put the airport at risk of exceeding the airport QC quota and as a consequence, the noise envelope, where subject to a QC requirement.

6.1.12 There is no need to be prescriptive now regarding what the Applicant must do to ensure compliance with the Noise Envelope, and in fact this would be a stifling approach which may artificially and unnecessarily limit growth and the economic benefits that the DCO would consent. Rather, the application of the Noise Envelope, the need to comply with the contour limits and the approach to reporting through forecasting and monitoring of actual performance, will be effective to require the Airport to achieve compliance and give them the flexibility to operate their business to do so.

- 6.1.13 Moreover, the Airport will be actively managing and seeking to maximise its capacity within the environmental controls, and to achieve this it may choose to implement measures which allow it to increase the number of movements whilst limiting noise through the use of specific co-ordination parameters which influence the manner in which slots are available, for example allocating them on the basis that they can only be used by ICAO Chapter 14 Aircraft (a 'noise efficient slot') (see paragraph 2.2.8 of the Noise Envelope Note). This again is a decision for the Airport to take, to ensure it operates within the applicable environmental limits.
- 6.1.14 The Applicant, for completeness, addresses the very unlikely circumstances that there is an actual breach, and that this is being caused by the existence of 'grandfather rights' which mean movements need to reduce to achieve compliance. As is explained at paragraphs 2.7.5 of the Noise Envelope Note, in those circumstances the Applicant would seek to negotiate a voluntary position with the affected airline operator(s) as appropriate. Such negotiation would also be undertaken against the backdrop that the Applicant would be in breach of the DCO requirement, and in the event of persistent breach enforcement action may be taken under the Planning Act 2008. An ultimate sanction under such Planning Act 2008 enforcement procedures could be the imposition of a court injunction, to prevent continued operations which result in breaches of the Noise Envelope contour limits.
- 6.1.15 It is not considered that there is any realistic possibility of that situation arising, taking into account the robust forward-looking nature of the controls that are proposed, the need to evidence how compliance will continually be achieved and the measures to do this year on year, and the early 'shadow' implementation of the noise envelope two years prior to operations from the NRP commencing.
- 6.1.16 Accordingly, and contrary to the JLAs' submissions at paragraph 4.11 of the JLAs' D5 submissions, other additional controls are not required to be secured by the DCO to ensure that growth cannot give rise to unacceptable environmental noise effects, and it is not correct that there would be a 'time lag' which undermines the effectiveness of the Applicant's proposed Noise Envelope and when actions are to be in place to be prevent breaches arising. That may be true of a backwards looking Noise Envelope, such as that proposed by the JLAs, but it is not a flaw of the Applicant's proposals.
- 6.1.17 Moving to consider Section 7 of the JLAs' D5 Submissions, the Applicant robustly refutes that the Noise Envelope is in any way limited as the JLAs seek to portray. Moreover, for the reasons that have previously been explained, and consistent

with Noise Envelope planning controls operating (or proposed to operate) at other UK airports, it is not necessary to use a range of metrics to place the appropriate limits on air noise, or to allow those to be reviewed over time, and doing so would not provide clarity and certainty for surrounding communities and other relevant stakeholders.

6.1.18 At paragraph 7.2 of the JLAs' D5 Submissions various principles are set out which are identified to be those which must be applied to a noise envelope, the setting of its limits and in respect of the process of governance. To assist the ExA the Applicant's response to each of those is set out below:

<u>JLA stated principle</u>	<u>Applicant's response</u>
<p>The noise envelope must be responsive so that action can be taken in a timely manner to prevent breaches.</p>	<p>This is not agreed with, and rather the Noise Envelope needs to be sufficiently anticipatory and allow flexibility in the measures to address any forecasted issues such that it is not necessary to take reactive / responsive measures to correct issues which have already arisen in short timescales in an unplanned manner. This first principle highlights why the EMG proposals are not as effective at preventing breaches whilst ensuring growth and its associated benefits by comparison with the Applicant's Noise Envelope proposal.</p>
<p>The noise envelope should encourage a management system to assure compliance rather than simply report performance.</p>	<p>As has been detailed in the Noise Envelope Note, the Applicant's Noise Envelope incorporates a rigorous system of forecasting, monitoring, reporting and management, aligned with future business planning, to ensure the successful operation of the Airport and the realisation of its capacity and associated benefits with processes to assure this is within the Noise Envelope contour limits. That</p>

	<p>assurance is further bolstered by the appointment of the CAA as the independent noise reviewer, drawing on their significant expertise to ensure the necessary checks and balances are in place.</p>
<p>The use of quieter fleet and operational practices must be incentivised.</p>	<p>The key principles of the policy, when read as a whole, are that:</p> <ul style="list-style-type: none"> • Within the limits set by the envelope, the benefits of future technological improvements should be shared between the airport and its local communities to achieve a balance between growth and noise reduction; and • Airlines should be incentivised by noise envelopes to introduce the quietest suitable aircraft as quickly as is reasonably practicable. <p>The Noise Envelope contour limits have been agreed by the Applicant to be based on the updated central case forecast, which will set the fleet forecast trajectory into the future. The Noise Envelope contour limits will also be reviewed over time, to reflect how quieter aircraft are being procured and introduced into the fleet by airlines, and by establishing further limits into the future taking this into account will capture that anticipated level of performance and in turn incentivise it to ensure access can be given to the maximum number of movements over time. In doing so the Noise Envelope</p>

	will be providing (sharing) further benefit to local communities.
The delivery of the noise insulation scheme must be incentivised.	This is not relevant to the Noise Envelope, and the delivery of the Noise Insulation Scheme based on the Year 1 Noise Envelope Limits, which cannot be exceeded in the future, is already secured through DCO Requirements.
The noise envelope must integrate with the noise insulation scheme and planning policies.	The Noise Insulation Scheme inner zone and outer zone are set taking into account the Noise Envelope contour limits, and as such are integrated with this. The Noise Envelope is also policy compliant, as set out above when considering what the requirements of relevant policy are.
Appropriate noise metrics must be incorporated into the controls reflecting the effects.	The Airport has carefully considered relevant information regarding which metrics should be used, and it has detailed why only the primary metrics should be used to set the Noise Envelope contour limits. Further information in this regard is contained at paragraphs 2.5.2 – 25.15 of Appendix 14.9.5: Air Noise Envelope Background [APP-175].
Where effects are found to be represented by new metrics the noise envelope needs to have the ability to be updated to incorporate these as controls.	As above, the Airport has detailed why the primary metrics should be used to set the Noise Envelope contours, whilst accepting the reporting of secondary metrics. This ensures that the Noise Envelope is simple and able to be easily understood by all stakeholders, which includes communities and the airlines operating

	<p>from Gatwick Airport. Both need certainty, and the introduction of additional metrics and requirements as operations progress would be entirely inappropriate as a consequence. Nowhere in policy or guidance is such an approach proposed, and the Applicant is not aware of any example of such an approach being taken in a noise envelope for any other airport in the UK.</p>
<p>Control over the airport should be on a local basis with appropriate input from the relevant central government bodies.</p>	<p>There is no basis for this in law or policy. Where legal requirements require local authorities to perform a role, such as in accordance with Article 6(3) of Regulation 589/2014, the publication of the forecasting and monitoring reports post scrutiny by the CAA, will ensure they can perform that role. But that is not in any way the same as having the ability to 'control the airport', and in that respect the Airports (Noise-related Operating Restrictions) (England and Wales) Regulations 2018 confirm that the Secretary of State is the competent authority for imposing noise operating restrictions through a DCO, and the exercise of scrutiny over forecasting and monitoring information by the CAA before wider publication of that and the use of their expertise to assist with confirmation of compliance with the Noise Envelope and the appropriate limits to be set over time is entirely lawful and appropriate. The Applicant would also argue it is prudent given</p>

	<p>their specialist expertise and independent function.</p>
<p>The ESG and the Technical Panels need to have appropriate powers for scrutiny and audit of processes and data and have the ability to recover costs associated with all work.</p>	<p>There is no need for an ESG or Technical Panels, and in the Applicant's view this represents the use of resources unnecessarily to address a less efficient approach to noise control. The CAA is more than capable of performing its role of independently reviewing and verifying the information which is submitted by the Airport in a timely manner which will ensure the most effective and timely visibility of air noise emissions information and demonstrable compliance with the Noise Envelope limits.</p>
<p>The roles of all regulators need to be defined and recognised to provide an effective enforcement model.</p>	<p>There is a clear definition of function in the Noise Envelope and the DCO in relation to the review of the forecasting, monitoring and other information relating to compliance which may be submitted by the Applicant. There are also effective controls in place to address a breach, which will restrict further capacity releases so as to best prevent those arising. There is also no need to think it is necessary to re-write the Planning Act 2008 enforcement processes, As primary legislation reflecting Parliament's will it should be able to taken as read that those enforcement processes are appropriate to be relied upon in the event of a breach of a DCO requirement.</p>

<p>An appropriate appeals mechanism must be established.</p>	<p>An appeals mechanism is included in the DCO, which allows matters to be referred to the Secretary of State by the Applicant, as is typical of DCO approval process arrangements. The enforcement powers in the Planning Act 2008 also exist and can be relied upon by the JLAs should they identify any breach of a DCO requirement relating to the Noise Envelope.</p>
<p>Information by the Applicant should be produced without delay and published in a manner and form as may be specified by the ESG</p>	<p>The Noise Envelope information is to be published in a timely manner for all stakeholders to be aware of, with each approved annual monitoring and forecasting report and noise compliance plan required to be published within not more than 14 days following the date on which those are approved (see DCO requirement 15 (4)).</p>

- 6.1.19 With regard to the comments at paragraph 7.3 of the JLAs' D5 Submissions, the mitigations for Ground Noise are the Noise Insulation Scheme and bunds which form part of the design of the NRP proposals. It is not in any way necessary for there to be a management plan to further establish this or secure those matters.
- 6.1.20 With regard to the comments at paragraph 7.4 of the JLAs' D5 submissions:
- 6.1.20.1. The Applicant has explained how there is a very effective approach to forecasting future demand, which the Noise Envelope is clearly based upon.
 - 6.1.20.2. The Applicant does not agree that the step down in the Noise Envelope contour areas at Year 9 is not appropriate and should be sooner. The level which is set in Year 1 provides the headroom for growth, to a maximum level which is acceptable. To be within the Noise Envelope contour areas the air noise emissions will need to begin a trajectory of reduction well in advance of Year 9, as they

cannot instantly reduce from the Year 1 level to the Year 9 level. The approach allows for growth in the early years, capping a peak of noise, and then incentivises improvements in noise performance to Year 9.

6.1.20.3. The Applicant has agreed to base the Noise Envelope on the updated central case fleet mix, which is appropriate. This represents the Airport taking on additional risk given the achievement of this rate of fleet mix is heavily dependent on manufacturers and their supply chain being able to meet their delivery schedules to fulfil airline orders in a volatile global environment. But the Applicant has chosen to adopt this more challenging case to incentivise as best as it can and maximise the benefits it is able to share, in response to feedback from various stakeholders.

6.1.20.4. As is detailed in the above table, the Noise Envelope contour limits have been agreed by the Applicant to be based on the updated central case forecast, which will set the fleet forecast trajectory into the future. The Noise Envelope contour limits will also be reviewed over time, to reflect how the quieter aircraft are being procured and introduced into the fleet, and by establishing further limits into the future taking this into account will capture that anticipated level of performance and in turn incentivise it to ensure access can be given to the maximum number of movements over time. In doing so the Noise Envelope will be providing (sharing) further benefit to local communities, in line with policy.

6.1.21 With regard to further points which are made by the JLAs at paragraphs 7.6 – 7.9 of the D5 Submission on EMG and in respect of which responses are not already provided:

6.1.21.1. As has been set out in the Noise Envelope Note, there is no need for thresholds to be set. Setting limit value at 80% and 90% would also be requiring actions which inhibit growth, which is permitted up to 100% of the limit. There is simply no support in policy or elsewhere for an approach which seeks to limit the Airport in a manner which requires the full extent of growth, whilst staying within environmental limits, not to be achieved.

6.1.21.2. Appropriate and proportionate management action is evidently able to be secured without the need for the proposed artificial limits on growth to ensure limit values are not exceeded, and this is far more effective by reference to future forecasting than looking back at previous years

and then mandating approaches to address issues which have arisen and caused operational issues.

- 6.1.21.3. There is likewise no need to mandate QC budgets for day and night-time linked to the slot allocation process to manage the allocation of slots in line with the anticipated noise impact. QC budgets along with other tools may be used to inform the capacity declaration and slot allocation, but this should not be prescribed, particularly when taking into account how those correlate with actual noise performance and as a tool are therefore limited in terms of their accuracy.
- 6.1.21.4. The Applicant has also explained why the five year forecasting approach and the commencement of that two years prior to operations from the NRP commencing will be effective to identify predicted breaches before they arise, and ensure capacity is not released which gives rise to an actual breach. In circumstances where noise operating controls can be aligned with other business planning processes to effectively and responsibly manage the Airport within its limits, it is remarkable to suggest that no slot should be released for two years post the NRP commencing operations to allow analyses of data to inform what may be reasonably be released so as not to exceed a limit.¹ Any system where the authors of that system regard that as being even potentially necessary is a system which could not meet any of the relevant planning tests. It envisages a world in which the Applicant invests in the full implementation of the NRP and then would be forbidden from using it for at least two years, at the whim of the JLAs.
- 6.1.21.5. The manner in which the Noise Envelope is proposed to operate alongside business planning, to ensure the contour area limits are not exceeded by the release of capacity, will inherently limit slots that can be allocated in any given year, and indeed will restrict release where there is any forecast breach in the future five year period.
- 6.1.21.6. The noise insulation scheme has been based on the maximum level of noise that the DCO would permit, and it is not proposed to reduce this as the Noise Envelope contour limits are reviewed over time. In those circumstances there is simply no logic to linking slot release to the

¹ At ISH8 the JLAs argued that this was not their proposition, recognising how disproportionate it would be. However, that proposition is set out in terms in REP5-093 at paragraph 7.7 and in the appendix at paragraph 51: “*Therefore the mechanism by which the noise envelope would work would be to (have): an initial delay of slot allocation by two years to allow analyses of the data to inform what may be reasonably be released so as not to exceed a limit.*”

delivery of additional noise insulation. The noise insulation that is to be provided has already been shown to be adequate to avoid all significant effects, in policy terms.

7 Conclusion

- 7.1.1 There is no consented or operational precedent for what the JLAs propose. There would need to be a clear and obvious need for such an approach for it to be found necessary and a corresponding deficiency in what the Applicant proposes by comparison. That case has not been made.
- 7.1.2 There is no reasonable basis to consider that any EMG-framework type regime could be required in respect of Air Quality in view of the Applicant's assessment.
- 7.1.3 Similarly, it is plainly disproportionate to consider the creation of such a regime is justified in respect of the circa 4% of airport GHG emissions the JLAs are proposing their framework applies to, and particularly considering the equivalent regime put forward by the Applicant in the CAP.
- 7.1.4 It is also not obvious that an EMG framework is required in the context of surface access at the airport, in view of GAL's legacy track record and the already effective functioning of, and working relationship with, the TFSG that achieves much of the same independent scrutiny for which the JLAs advocate. The Applicant's approach in the SACs builds on, and complements, that existing, successful approach, and significant mitigation, both physical and financial, has been committed to as part of the Project to ensure its success.
- 7.1.5 In relation to noise, this document explains why in the Applicant's view the EMG proposals would be less effective than the Noise Envelope which has been proposed by the Applicant, both in terms of controlling noise and reporting the actual and forecasted air noise emissions to stakeholders. The JLAs' submissions do not appear to recognise the way in which the Applicant's proposed Noise Envelope will operate to forecast future air noise emissions from operations, and to address in good time any anticipated breaches should those be predicted. The JLAs have not evidenced why EMG is the only way or a better way to manage a Noise Envelope.
- 7.1.6 There is no need for or demonstrable benefit of local control of airport operations as is suggested by the JLAs, particularly when dealing with an airport which is designated because of its national importance. The EMG Framework attempts to exert a level of control directly contrary to current law and policy in circumstances

where it is evidently the case that the CAA is better suited to undertaking the independent reviewer role.

- 7.1.7 The JLAs control over any breach is unaffected by the fact they are not responsible for approving monitoring and forecasting reports or air noise envelope reviews, as the Planning Act 2008 provides them with a basis to seek to enforce any breach of a DCO requirement in the highly unlikely circumstances that arises.
- 7.1.8 For all of the reasons set out in this document, the Applicant is clear that an EMG approach is neither necessary nor appropriate for this Project.