

# Northern Runway Project

## making best use of Gatwick

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Reply to Examining Authority's (ExA)  
second written questions and requests  
for information (ExQ2)

Compulsory Acquisition and  
Temporary Possession  
Question CA.2.1

Deadline 7

Gatwick Green Limited

July 2024

# Gatwick Airport Northern Runway Project

## Answer to ExA Question CA.2.1

### Compulsory Acquisition and Temporary Possession

#### 1.0 Background

Gatwick Green and the Applicant have reached an agreement in principle for Gatwick Green to dispose of the land and rights which the Applicant needs, to deliver the proposed development, noting that part of the solution is outside of the proposed Draft DCO order limits.

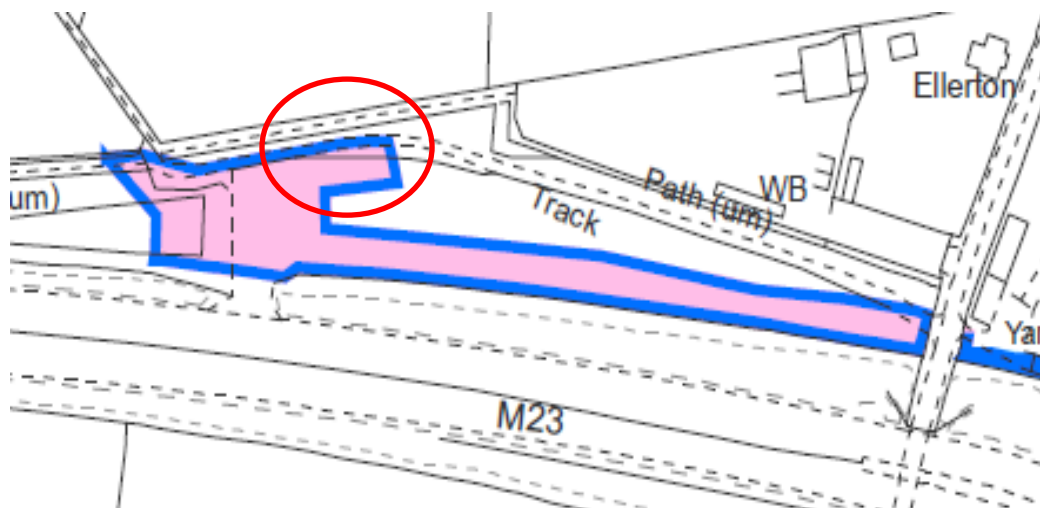
Following an update submission to Deadline 6, the ExA have requested that additional information is provided to support the view that the extent of the land sought for permanent acquisition is excessive.

This comment relates to plots 4/463 and 4/473 and Works 35.

#### 2.0 Additional Information on land sought for Permanent Acquisition

Gatwick Green has held the view that the extent of the land sought for permanent acquisition is excessive and first raised the issue in its' Relevant Representation.

Below is an extract from the Plan issued by the Applicant to indicate the extent of the land required for permanent acquisition.



Key:

-  Option Land
-  Permanent Land Take (1.105 ha)
-  Temporary Land Take (0.325 ha)

In respect of the extent of the land sought for permanent acquisition, the only justification that the Applicant has given is that the position of the foot of the embankment cannot yet be determined, as the detailed design has not been completed. In addition, due to lack of detail, the Applicant advises that they are unable to determine whether the balancing pond will require extension.

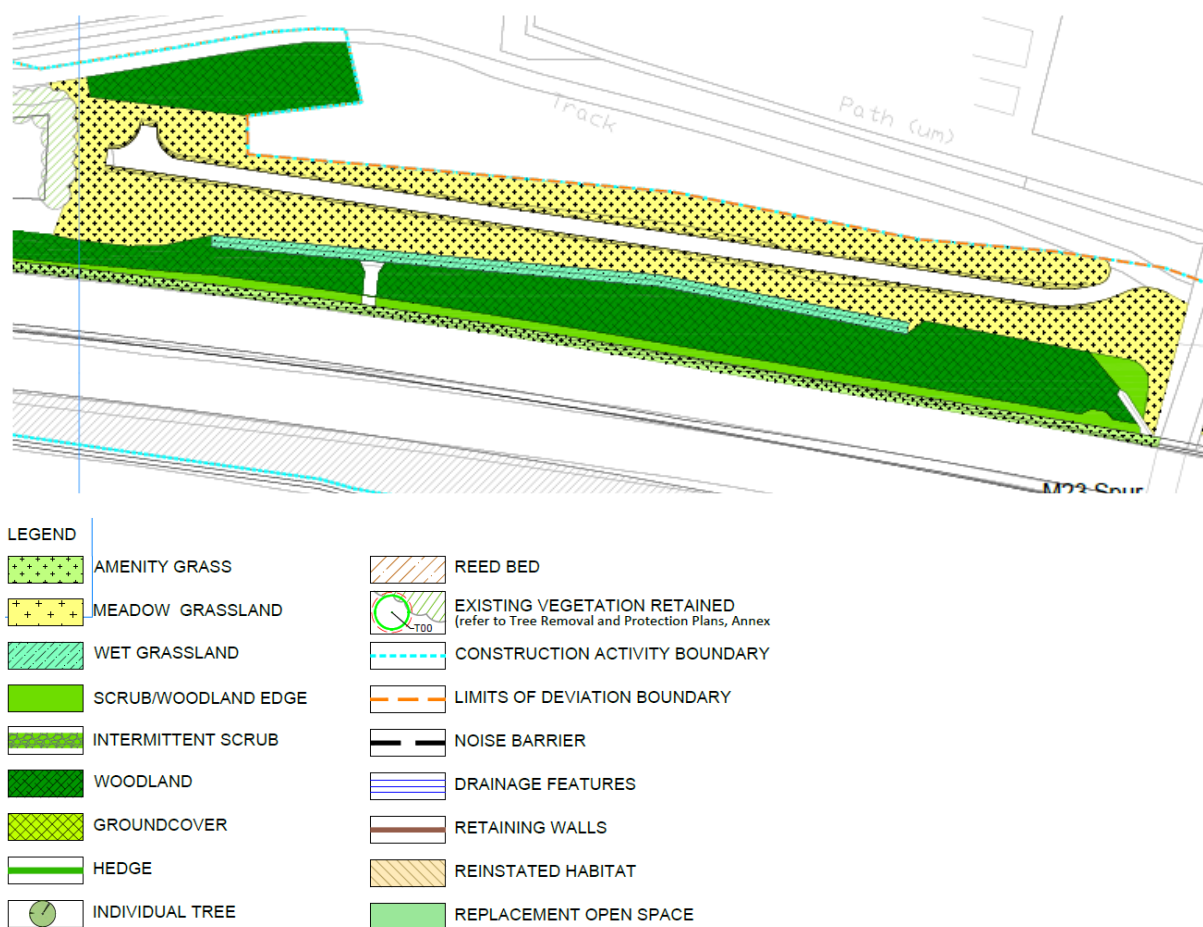
Gatwick Green would like the ExA to note that, at points, the land sought for permanent acquisition extends over 40m from the southern boundary of the Gatwick Green ownership, which is parallel to, but does not form, the northern edge of M23 spur carriageway.

Gatwick Green contends that this is unrealistic in respect of the Limit of Deviation for the surface access works, particularly with regard to Article 6(2) of the draft Development Consent Order (dDCO) ((TR020005-002469 2.1), where the Applicant is seeking to establish that *'Any of Work Nos. 35, 36 or 37 (surface access works) may be situated within the limits shown on the works plans of Work Nos. 35, 36 and 37 taken as a whole'*

Works No 35, where they impact on the Gatwick Green landholding are, effectively, to bring the existing west-east hard shoulder into use as a running lane. As the location and extent of the carriageway is already set, it is unrealistic for the foot of the embankment to be located up to 40m away from the Gatwick Green southern boundary.

The possible extension of the Balancing Pond has already been accommodated in the plans submitted with the Gatwick Green's comments on the Applicant's second update to the Land Rights Tracker at Deadline 6 (TR020005-002636-DL6) and has been amended further – see Section 3. However, Gatwick Green would ask the ExA to consider that any rational extension of the balancing pond is likely to be designed in such a way as to avoid a projection, such as that outlined in red on the plan above.

Notwithstanding the above, the Applicant has issued, as part of its DCO Application, the plan below, (TR020005-000942-5.3), which shows the principal proposed use of the land to be permanently acquired as landscaping and for access to the existing Balancing Pond located in plots 4/463 and 4/467. National Highways have agreed, in principle, that a new access to the balancing pond is not necessary and that, with conditions relating to access for maintenance, the existing track can be used, noting that this is outside of the proposed Draft DCO order limits.



It is Gatwick Green’s contention that any land over which landscaping is provided does not require permanent acquisition and represents an unnecessary use of the land by the ultimate owner, National Highways. This is consistent with the principles proposed by National Highways and summarised by their comments quoted below. Temporary possession and rights of access and maintenance offer a means by which the area can be delivered in accordance with the requirements of the DCO, obviating the need to acquire the land on a permanent basis.

In relation to the draft Development Consent Order, (TR020005-002469 2.1), National Highways is challenging the inclusion of Article 27(b) (National Highway’s Principal Areas of Disagreement Summary Statement June 2024, (TR0200005-

00249 D5)) to allow the Application to ‘use’ any Compulsorily Acquired land ‘for the purposes authorised by this Order or for any other purposes in connection with or ancillary to the undertaking’.

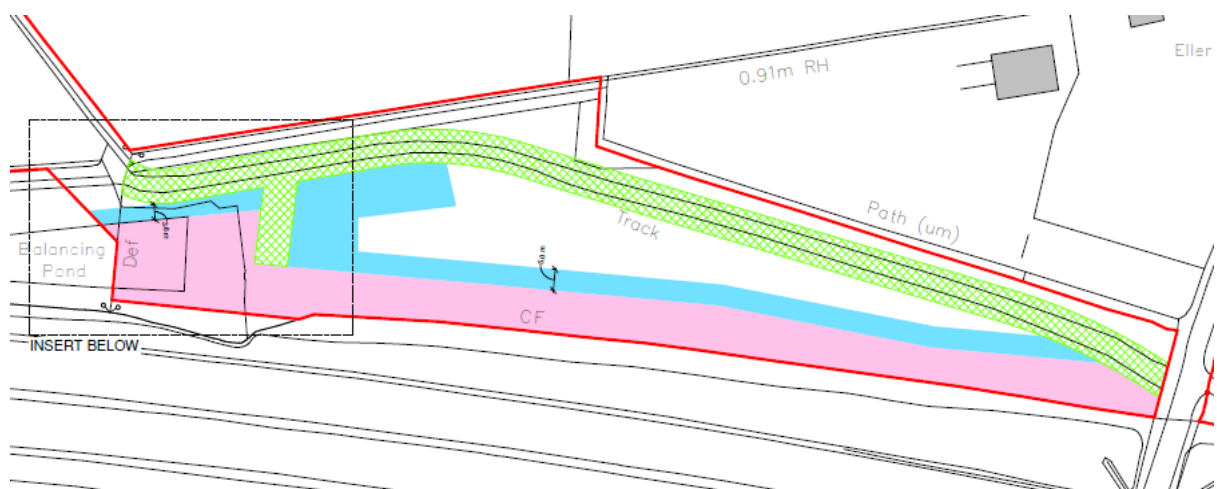
Gatwick Green supports this challenge as, unamended, Article 27(b) would allow the Applicant to use the land acquired from Gatwick Green for other purposes, besides landscaping. In addition, the Applicant has not demonstrated a ‘*compelling case in the public interest for the powers sought and does not comply with guidance that compulsory acquisition powers should be limited to what is necessary.*’

Gatwick Green is concerned that the Applicant is seeking to use its Compulsory Acquisition powers for ‘Highways’ land as a mechanism to acquire land not only for undisclosed uses but also for land beyond that which is necessary.



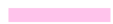

Finally, National Highways has been clear in Section 4 of its Summary of Representations to ISH6, ISH7 & CAH1 (TR020005-002356) that the Applicant ‘*should be looking at reasonable alternatives to compulsory acquisition, rather than taking such broad powers*’ and that, when acquiring land not part of the Strategic Road Network, the ‘*Applicant should justify the need for permanent powers, so it is clear to National Highways why this land is needed*’.

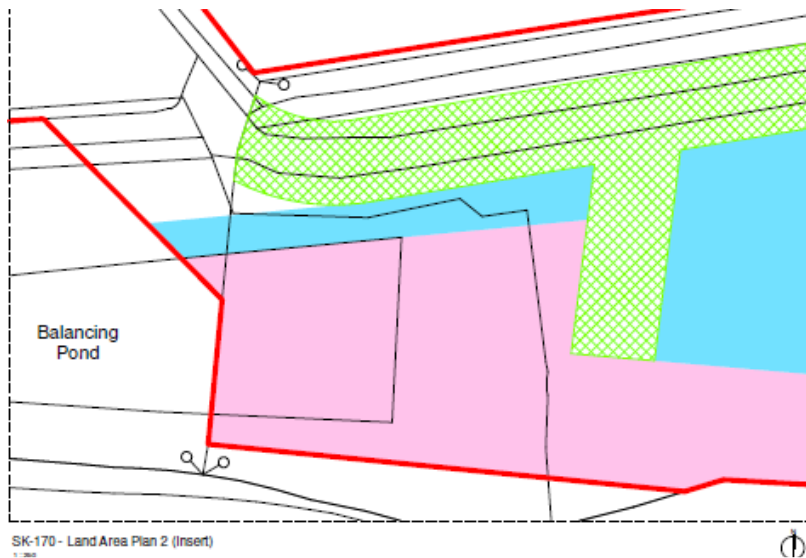
### 3.0 Updated Plans

Following the plans submitted at Deadline 6, further discussions with the Applicant have taken place and a revised plan has been prepared – see below. This proposes an approach which secures the essential land required by the Applicant whilst minimising the impact on Gatwick Green and preserving the necessary rights of access for National Highways.



#### LEGEND

-  WILKY OWNED LAND
-  PERMANENT RIGHTS OF ACCESS.
-  LAND AVAILABLE FOR PERMANENT ACQUISITION.
-  LAND AVAILABLE VIA TEMPORARY RIGHTS OF ACCESS / USE.



#### 4.0 **Conclusion**

In addressing the question, Gatwick Green has aimed to provide the ExA with sufficient detail to conclude that the extent of the land sought for permanent acquisition is excessive. In this context, it is hoped that the Applicant may be persuaded that the indicated extent of the 'pink' land, (for permanent acquisition), can be reduced in accordance with the more reasonable approach shown on the plans above.

It would be helpful for the ExA to propose that powers of temporary possession and subsequent rights to repair, maintain, etc. for the delivery of landscaping are a more proportionate alternative to the approach adopted by the Applicant. This approach offers an adequate means by which the area can be delivered in accordance with the requirements of the DCO without the need for permanent acquisition.