



**Horsham
District
Council**



GATWICK AIRPORT NORTHERN RUNWAY PROJECT

Planning Inspectorate's Reference: TR020005

Legal Partnership Authorities RESPONSE TO EXQ2

Deadline 7: Monday 15 July 2024

Crawley Borough Council (GATW-AFP107)

Horsham District Council (20044739)

Mid Sussex District Council (20044737)

West Sussex County Council (20044715)

Reigate and Banstead Borough Council (20044474)

Surrey County Council (20044665)

East Sussex County Council (20044514)

Tandridge District Council (GATW-S57419)

LEGAL PARTNERSHIP AUTHORITIES

RESPONSE TO THE EXAMINING AUTHORITY'S SECOND WRITTEN QUESTIONS AND REQUESTS FOR INFORMATION (EXQ2)

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).

Introduction

These submissions constitute the Legal Partnership Authorities' responses to the questions and requests for information raised by the ExA in ExQ2. The table of questions below has been amended to delete the questions which are not addressed to any of the Legal Partnership Authorities.

ExQ2	Question to:	ExA's Question:	Legal Partnership Authorities Response
GENERAL AND CROSS-TOPIC			
GEN.2. 11	Applicant Interested Parties (IPs)	<p>Environmental Statement</p> <p>At Issue Specific Hearing (ISH) 8 the ExA asked the Applicant to provide, at D9, a consolidated Environmental Statement (ES) incorporating all the various amendments to the ES throughout the Examination. In response the Applicant indicated that it would provide a signposting schedule document which would identify the relevant chapters and other aspects of the ES submitted as part of the DCO Application, and where any aspect of the ES as submitted needed to be read subject to other documents that had been submitted during the Examination [REP6-083].</p> <p>The ExA notes that the updated navigational document which is provided at each deadline [REP6-002] provides information in relation to updates and ES Addendums that have been submitted including Appendices to the ES but that ES Chapters themselves are not necessarily updated (eg Appendix 14.9.7: The Noise Envelope was updated at D5 [REP5-029] by ES Chapter 14 [APP-039] has not</p>	<p>The Authorities support the production of a fully updated Environmental Statement as a comprehensive document and note the request for the Applicant to provide a complete list of changes at D7.</p> <p>The Authorities anticipate providing comments on this information at subsequent deadlines.</p>

		<p>been revised to incorporate this or any other changes).</p> <p>The ExA requires the ES to remain up to date throughout the Examination to ensure that all parties are provided an opportunity to comment on any information which updates and therefore becomes part of the ES. The Applicant is requested to consider whether all relevant chapters, appendices and figures of the ES are up to date and to provide the ExA with a complete list of changes at D7. Interested Parties (IPs) are then requested to provide comments on any of these updates to the ES at D8.</p>	
CASE FOR THE PROPOSED DEVELOPMENT			
CS.2.1	Applicant Local Authorities	<p>Statements of Common Ground on Forecasting & Need and Capacity & Operations</p> <p>The ExA note the issues regarding the submission of the above SoCG referred to in the D5 Cover Letter [REP5-001] and the references within the '<i>Applicant's Response to Deadline 5 Submissions – Response to York Aviation</i>' at D6, including the intention to submit an updated version at D7.</p>	The Authorities are co-operating with the Applicant on this matter to ensure submission into the Examination at Deadline 7.

		Please ensure that such documents are submitted at D7. Even if such documents are still in a state of flux, the agreed differences between the parties on these issues would be of assistance to the ExA.	
CLIMATE CHANGE AND GREENHOUSE GASES			
CC.2.1	Applicant IPs	<p>Finch v Surrey County Council</p> <p>The Supreme Court has recently (20 June 2024) handed down judgment in the case of R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents). At ISH6: Climate Change the ExA noted that the Applicant had responded to comments made by IPs relating to downstream emissions by reference to the Finch case in written submissions (see [REP3-072]) [REP4-032].</p> <p>Following the Supreme Court judgment, all parties are invited to comment on the relevance or otherwise of this decision to the Applicant’s DCO application.</p>	The Authorities response to CC2.1 is included at Appendix 1 to this submission.
COMPULSORY ACQUISITION AND TEMPORARY POSSESSION			
CA.2.7	Local Authorities	Permanent acquisition of land	The Authorities (in the case of highway land, meaning the County Councils as local highway authorities) acknowledge the need to ensure that land is “cleansed”

		<p>The ExA notes both the comments made in CAH1 ([EV14-001] and [EV14-002]) and the CAH1 post-hearing submission [REP4-056] in respect of the issue of proportionality. In the <i>'Applicant's Response to Deadline 4 Submissions'</i> [REP5-072], at section 2.5 of Table 3 the Applicant reiterates the point that by allowing the Applicant the power to compulsorily acquire land required for the widened highways this would ensure that contrary rights could be extinguished using the DCO powers where required, which would facilitate the securing of clean title and thus ensuring the deliverability of the scheme. The Applicant further states that, to the extent possible, they will use temporary possession powers in carrying out the highway works.</p> <p>Additionally in Table 3 [REP5-072], the Applicant considers it important to retain compulsory acquisition (CA) powers over all land required for the improved highways to ensure that, if the ownership of plots of land required for the scheme proves to be different to that currently identified by the parties (e.g. a plot of land which a highway authority considers it owns proves to be in third-party ownership), the Applicant would be able to acquire this land and ensure the deliverability of the scheme.</p>	<p>of all interests before carrying out works, and to deal with unexpected land ownership issues.</p> <p>But in order to meet the compelling need test, the local highway authorities consider that additional protection could be provided for them, particularly as the Applicant will only require possession of highway land temporarily for construction purposes.</p> <p>As mentioned in previous submissions, the local highway authorities are prepared to enter into agreements with the Applicant where appropriate to allow them to carry out the necessary works to the local highway network during the construction period. Template highways agreements have been provided to the Applicant for consideration.</p> <p>The County Councils have previously noted that National Highways have similar concerns over the breadth of the powers of acquisition in respect of the strategic road network, and they have been provided with protective provisions which – among other things – require the consent of National Highways to the acquisition or use of any part of the strategic road network (SRN), the acquisition of new or existing rights over the SRN or the imposition or extinguishment of any restrictive covenants over the SRN. See paragraph 18 in Part 3 of Schedule 9 to the draft DCO [REP6-006].</p> <p>The Authorities in principle position has been that, in the absence of any agreement to that effect, the DCO should be amended to provide similar protection for the County Councils.</p>
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		<p>Noting this approach, please confirm whether this provides an adequate explanation in respect of the Applicant’s approach in meeting the relevant statutory and policy tests?</p>	<p>Following recent discussions with the Applicant, the Authorities understand that the Applicant will be submitting revised land plans and a revised book of reference at deadline 7 which may meet the concerns of the Authorities.</p> <p>If the revised plans and book of reference do not satisfy the Authorities, they will put forward drafting at deadline 8 which will reflect paragraph 18 (land) of the protective provisions in Part 3 of Schedule 9 (protective provisions) to the draft DCO.</p>
CA.2.8	Applicant Local Authorities	<p>Protective Provisions Noting the Legal Partnership Authorities’ response to ExQ1 CA.1.17 [REP4-070] and the subsequent response by the Applicant in ‘<i>The Applicant’s Response to Deadline 4 Submissions</i>’ [REP5-072], please confirm if draft protective provision wording has been submitted in respect of local highway authorities?</p>	<p>Draft protective provision wording has not been submitted. The local highway authorities have submitted specimen section 278 highways agreements to the Applicant as an alternative and discussions are on-going between the Authorities and the Applicant in relation to these template agreements.</p> <p>The Authorities are hopeful that an accommodation can be reached on this issue, whereby there is clarity over the extent to which the Applicant will be prepared to agree to the highway authorities’ standard terms, where applicable.</p>
CA.2.9	Applicant Local Authorities	<p>Management of Replacement Open Space Please can all parties provide an up-to-date position in respect of the management of all replacement open space (ROS).</p>	<p>The Authorities understand that the Applicant will be coming forward with revised proposals at Deadline 7 relating to the special category land acquisition which will result in the Applicant becoming responsible for the ownership and/or control and management of the replacement land. The Authorities understand that the obligations to manage the land will be described in the relevant landscape and ecology management plans for the sites in question, secured by requirement 8.</p>

		Can the Applicant confirm if Horley Town Council are to be involved in the management of Church Meadows ROS?	The Authorities will consider the revised DCO and OLEMP which they understand are to be produced at D7 with a view to making any further comments at D8.
CA.2.10	Local Authorities	<p>Bayhorne Farm – drainage attenuation pond</p> <p>The comments made by the local authorities to the Applicant's answer to ExQ1 CA.1.11 [REP4-070] regarding the drainage attenuation pond are noted. The Applicant has confirmed they have reviewed possible alternative locations at the northern end of Bayhorne Farm. However due to technical constraints this location has not been progressed [REP5-072].</p> <p>Please confirm whether the Local Authorities are satisfied with justification given and if not, is it possible to identify an alternative location for the pond which would be technically feasible?</p>	<p>SCC (as landowner) had set out an alternative location to the Applicant which would be located within the Bayhorne Farm site and provide highway drainage. The Council does not have within its ownership any other land it can offer to the Applicant to relocate the attenuation pond.</p> <p>The Applicant set out their response on 4th June 2024. The response was not supported by any hydrology report detailing why the alternative location was not suitable or any notes/comments from National Highways. The Authorities expect the Applicant to share evidence to demonstrate the basis upon which it gave consideration to the alternative location, and the conclusions drawn when the location was tested against the need for highway drainage in this location.</p> <p>The proposed location of the attenuation pond is on important development land and all consideration should be given to relocation.</p> <p>The Authorities would therefore query whether the Applicant has any land to the south of airport runway which could be made available for the pond.</p>
DEVELOPMENT CONSENT ORDER AND CONTROL DOCUMENTS			
Please note: all references to the draft Development Consent Order (dDCO) and the Explanatory Memorandum (EM) are to the versions submitted at D5 [REP5-005 and REP5-007] respectively unless otherwise indicated.			

<p>DCO.2. 1</p>	<p>Local Authorities Applicant</p>	<p>Art. 2 (Interpretation) Definition of commencement The SoCGs between the Applicant and Surrey County Council (SCC) [REP5-051] and between the Applicant and West Sussex County Council (WSCC) [REP5-055] describe discussions in respect of the definition of commencement as under discussion. The local authorities are asked to clarify their current position with particular reference to which of the items (a) to (o) are still in dispute. The Applicant is asked to provide specific reasons for the inclusion of items (a) to (o).</p>	<p>The items that are of particular concern to the Authorities, bearing in mind the Secretary of State’s Guidance on Content of a Development Consent Order required for Nationally Significant Infrastructure Projects and <u>Advice Note 15</u>, are:</p> <ul style="list-style-type: none"> (k) erection of temporary buildings and structures; (m) establishment of site compounds; (n) establishment of temporary haul roads; (o) the temporary display of site notices, advertisements or information <p>Each of the above, particularly having regard to the scale of the project and the duration of the construction works, have the potential to be works which could have significant effects on the environment. The Authorities consider that they should have greater control over these elements of the authorised development.</p> <p>If these items are to be retained, then at the very least, the Authorities expect there to be further justification for and detail about the nature of the works, their extent and their duration in the control documents, for example in the CoCP.</p> <p>Unless that detail is provided, the Authorities remain of the view that the amendments set out in Appendix M to the West Sussex authorities LIR should be made or that the paragraphs mentioned above be removed. These alternative amendments are set out in Part C to the Authorities’ “Consolidated dDCO Submissions” submitted at Deadline 7.</p>
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<p>DCO.2. 2</p>	<p>Local Authorities</p>	<p>Art. 2 (Interpretation) Definition of maintain The local authorities previously raised a concern about the definition of maintain [AS-029]. Do the local authorities still have a concern about the listed actions in this definition? If so, explain what changes would be required.</p>	<p>The Authorities have no remaining concerns on this issue.</p>
<p>DCO.2. 3</p>	<p>Local Authorities</p>	<p>Art. 3 (Development consent etc granted by the Order) The SoCG between the Applicant and SCC [REP5-051] and between the Applicant and WSCC [REP5-055] describe discussions in respect of the term ‘<i>adjacent to the Order limits</i>’ as under discussion. In the light of the Applicant’s comments in paragraphs 4.1 and 4.2 of the EM [REP5-007] the local authorities are asked to explain any outstanding concerns.</p>	<p>The Applicant has added the word “immediately” to “adjacent” at D6. There are no remaining concerns.</p>
<p>DCO.2. 6</p>	<p>Applicant Local Authorities</p>	<p>Art. 9 (Planning permission) In respect of Art. 9(4) the Applicant has stated that no prescribed mechanism is required as regards potential incompatibility under this sub-paragraph [REP5-037].</p>	<p><u>Article 9(4)</u> The Authorities note that there appears to be no precedent for Article 9(4) in any made DCO. The Authorities’ preferred position is that article 9(4) should be deleted.</p>

		<p>The Applicant is requested to provide further justification for the inclusion of this sub-paragraph and any precedent for it.</p> <p>The local authorities are asked to confirm and explain whether any modifications to the sub-paragraph could be made to make it acceptable or whether they wish to see its removal.</p> <p>In respect of Art. 9(5) the Applicant and the local authorities are invited to expand on their positions as set out during ISH8.</p>	<p>Without a list of planning conditions which are incompatible “with the requirements of this Order or the authorised development” it is impossible to know what existing planning conditions are affected. There may be conditions in existing planning permissions which are clearly intended to provide ongoing protection.</p> <p>If the ExA is not persuaded to recommend removal of article 9(4) then the Authorities would recommend its amendment so that:</p> <ul style="list-style-type: none"> • The undertaker must use reasonable endeavours to identify the planning conditions in question, before commencing works; • The undertaker must notify the planning authority and any use reasonable endeavours to notify persons adversely affected by the ceasing of the condition having effect; and • The article does not apply to specified conditions, set out in a Schedule, unless the local planning authority agrees. <p>The Authorities have set out proposed amendments to Article 9(4) in accordance with the bullet points above in Part C to their “Consolidated dDCO Submissions” submitted at Deadline 7.</p> <hr/> <p><u>Article 9(5)</u></p> <p>Proposed amendments to the Article 9(5) are set out in Part C to the Authorities’ “Consolidated dDCO Submissions” submitted at Deadline 7.</p>
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			<p>The Authorities refer to their previous submissions relating to article 9(5) and in particular:</p> <ul style="list-style-type: none">• Row 6 of Appendix M to the West Sussex LIR [REP1-069]• Action point 10 of the Legal Partnership Authorities Responses to Applicants Written Summary of Oral Submissions and Responses to Actions (from Issue Specific Hearings 1-5) [REP2-081],• Paragraph 4.2 of Issue Specific Hearing 2: Control Documents and the DCO Post Hearing Submission [REP1-212]; and• Post-Hearing submission on agenda item 8: Draft Development Consent Order [REP6-110] <p>There are two issues of concern, highlighted by the following extract from the Applicant’s Explanatory Memorandum [REP6-007] which at paragraph 4.40 says “this provision is necessary to ensure that the airport operator can continue, in particular, to rely on its extant permitted development rights to facilitate the on-going operation of the airport and to allow for minor works to be separately consented without needing to rely on an amendment to the Order which would be disproportionate and impractical in the circumstances”.</p> <p>The first issue of concern is that the Applicant should be prevented from exercising permitted development rights as an airport undertaker in the area of the habitat enhancement area and flood compensation area at Museum Field (Work No. 38) and the creation of an ecological area at Pentagon Field (Work No 41). Given the nature of those mitigation works, there should be no</p>
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			<p>possibility that PD rights could be exercised to frustrate their long-term objective. An amendment is included in the D7 paper of amendments.</p> <p>Of wider concern is the issue of the exercise of PD rights more generally, in particular in relation to the provision of additional car parking on operational land which is required as a direct or indirect result of the authorised development but which is not itself specifically authorised by the DCO.</p> <p>As previously stated in the documents referred to above, in the Authorities' view, the potential scope of development permitted by the provisions cited in article 9(5) cannot be dismissed as "minor works" and there is therefore a question as to whether this provision should be retained. If further development, which is not authorised by the DCO, is to take place at the airport, it should be subject to control by the local planning authority.</p> <p>Furthermore, if the Applicant wants the DCO to authorise further works, these should be included in Schedule 1 in the usual way (and their effects assessed). This approach is consistent with Advice note Thirteen: Preparation of a draft order granting development consent and explanatory memorandum (Republished February 2019 (version 3)).</p> <p>At paragraph 2.9, advice note 13 states that the dDCO should include the following –</p> <ul style="list-style-type: none">• "A full, precise and complete description of each element of the NSIP, preferably itemised in a Schedule to the DCO; and
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			<ul style="list-style-type: none"> • A full, precise and complete description of each element of any necessary “associated development””. The Authorities would argue that the retention of permitted development rights could, contrary to Advice note thirteen, result in a partial and incomplete description of the proposed development being included in the dDCO”. <p>The Authorities’ concerns about the possibility of further car parking being provided without any control would be eased if the Environmentally Managed Growth Strategy were to be incorporated in the DCO.</p> <p>However, the Applicant has made it plain that it is not willing to agree to that. Without it, for the reasons explained elsewhere, the Authorities have real concerns about the length of time that any issues relating to mode share would be remedied, under the monitoring, review and enforcement mechanisms in the current version of the Surface Access Commitments. There could be a period of 3 years before anything is done to address concerns about the meeting of the mode share commitments, during which time the Applicant would be capable of building yet more parking to meet the needs of the authorised development, using PD rights.</p> <p>The Authorities are in discussions with the Applicant on the Surface Access Commitments and if a satisfactory conclusion can be reached then its opposition to the general application of PD rights for parking could be dropped.</p>
DCO.2. 7	Applicant Local Authorities	Art. 10 (Application of the 1991 Act)	SCC and WSCC consider that the DCO should include a provision which ensures their permit schemes are applied to the construction and

		<p>The SoCG between the Applicant and SCC [REP5-051] indicates that the Applicant is considering the implications of the highway authority’s permit scheme.</p> <p>The Applicant and the local authorities are asked to provide an update on discussions on this matter and should its incorporation within Art.10 not be possible, the Applicant is to provide its reasons.</p>	<p>maintenance of the development. There have been discussions with the Applicant about this and the Applicant may be introducing amendments at D7 which the Authorities will consider.</p> <p>The West Sussex Scheme is at this link and the Surrey Scheme as varied is at this link.</p> <p>The Authorities have included a draft article in in Part C to their “Consolidated dDCO Submissions” submitted at Deadline 7 which is based on article 9 of the Southampton to London Pipeline Development Consent Order 2020</p> <p>In addition, Surrey County Council and West Sussex County Council have been approved for the purposes of the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012, in respect of their lane rental schemes. The Authorities consider that it should be made explicit in the DCO that the lane rental schemes will apply to the undertaker when carrying out works under Part 3 (Streets) of the DCO on the roads to which the lane rental schemes apply, and a proposed new article in Part C to the Authorities’ “Consolidated dDCO Submissions” submitted at Deadline 7.</p> <p>Details of the West Sussex scheme are at this link and the Surrey Scheme at this link. Both these subjects have been discussed with Applicant. Proposed amendments are in the D7 amendment paper.</p>
DCO.2.9	Applicant Local Authorities	Art. 12 (Power to alter layout, etc. of streets)	Without prejudice to their primary position that the provision should be removed, the Authorities would suggest at the very least that if the deeming

		<p>The Applicant’s position is that deeming provisions (included in Art.12(4) and elsewhere) are justified and appropriate [REP3-081]. The local authorities wish to see all deeming provisions removed from the DCO.</p> <p>The parties are requested first to identify any way in which deeming provisions could be modified in a way which may be acceptable to either party and secondly, if agreement cannot be reached, their final position in respect of a deeming provision.</p>	<p>provisions were retained, the requirement in a number of provisions in the DCO for agreement not to be unreasonably delayed is removed. The period within which the Authorities generally must decide applications is so short as to make an “unreasonably delayed” requirement unnecessary and oppressive, if there is also a deeming provision.</p> <p>Proposed amendments to the relevant provisions are set out in Part C to the Authorities “Consolidated dDCO Submissions” submitted at Deadline 7. The Authorities are aware that amendments may also be proposed by the Applicant and if so, they will be considered.</p>
DCO.2.10	Applicant Local Authorities	<p>Art. 14 (Temporary closure of streets) The Applicant is asked to consider whether Art. 14(1) should be amended to specify the streets affected in a Schedule. If not, why not?</p> <p>The Applicant and local authorities are asked to provide further justification for their respective positions in respect of the local authorities’ suggested additional sub-paragraph after Art. 14(5) as set out in AS-029.</p>	<p>The Authorities are pleased to note that an equivalent to their proposed additional paragraph has been included in the D6 version of the DCO as paragraph (4)(b). That particular issue is therefore closed.</p>
DCO.2.12	Applicant Local Authorities	<p>Art. 25 (Felling or lopping of trees and removal of hedgerows)</p>	<p>The Authorities have consistently said (see the West Sussex Authorities LIR [REP1-069] , Appendix M, for example) that the hedgerows affected by this</p>

		<p>Department for Levelling Up, Housing and Communities (DLUHC) ‘<i>Guidance on the content of a DCO required for a Nationally Significant Infrastructure Project</i>’ (April 2024) states that Applicants may wish to include an article to allow the removal of hedgerows without the need to first secure consent under the Hedgerows Regulations 1997. It states that such an article can either refer to the specific hedgerows intended for removal described clearly in a Schedule or drafted to include powers for general removal of hedgerows subject to appropriate controls and mitigation being included.</p> <p>Should there be a schedule referencing specific hedgerows? Does Art. 25 provide appropriate controls and mitigation? If not, what additions should be made to the article?</p>	<p>article should be listed in a Schedule. This would provide the authority and others certainty over which hedgerows are to be affected and follows precedent in many other DCOs (including DCOs where more hedgerows are affected).</p> <p>The Authorities are content with an alternative solution of a reference within Article 25 to a separate document which contains a schedule and plan of all hedgerows which may be removed (partially or in full) and this is shown in Part C to the Authorities “Consolidated dDCO Submissions” submitted at Deadline 7.</p> <p>Apart from those hedgerows mentioned within response to EN.2.4 (in reference to those hedgerows in proximity to the A23 and Pentagon Field), the oAVMS contains appropriate plans which display hedgerow retention and removal. Suitable schedules which could be referenced are presented within Appendices D and E of the Tree Survey Report and Arboricultural Impact Assessment [REP6-038].</p> <p>Without addressing the above, the Authorities do not consider that Article 25 provides appropriate controls.</p>
<p>DCO.2. 13</p>	<p>National Highways Local Authorities</p>	<p>Art. 27 (Compulsory acquisition of land) The Applicant and NH disagree about the inclusion of ‘use’ within Art. 27.</p> <p>What specific change would NH wish to see in this article and why?</p>	<p>The Authorities have no comment on this issue.</p>

		Is the inclusion of ‘construction, operation and maintenance in Art. 27(1) necessary/ appropriate?	
DCO.2. 14	Applicant IPs	<p>Art 31 (Time limit for exercise of authority to acquire land compulsorily) The Applicant is seeking to exercise its powers to acquire land or interests within 10 years beginning on the start date.</p> <p>Is there a precedent for the inclusion of the ‘<i>start date</i>’ within Art. 31? As both the time period and use of the start date rather than the date on which the Order is made are uncommon features of made DCOs, is there a potential compromise between the time period and exercising of the authority?</p>	<p>The Authorities understand that there is no precedent for the start date drafting in any made DCO. It is included in the draft Luton Airport DCO and the draft Lower Thames Crossing DCO.</p> <p>In the Explanatory Memorandum, the Thames Tideway DCO and the Hinkley Point DCO are cited as precedents for the 10-year period. But neither included the start date, and both (particularly Thames Tideway) are on a more significant scale than Gatwick. Apart from the HS2 and Crossrail hybrid Acts, which authorised very extensive linear schemes, the Authorities know of no other examples of a 10-year period.</p> <p>There is a particular concern relating to the proposed Horley Business Park and the potential for delaying its implementation.</p> <p>The Authorities would be prepared to accept a period of 7 years as a compromise. This is shown in Part C to the Authorities “Consolidated dDCO Submissions” submitted at Deadline 7.</p>
DCO.2. 19	Local Authorities	<p>Schedule 2 (Requirements) <u>R3 Time limit and notifications</u> The Legal Partnership Authorities have stated that the timeframes under R3(2) are not long enough [REP2-042].</p>	<p>The changes which were made by the Applicant at D5, which removed references to “business” days, has resulted in the time periods in paragraph (2) becoming shorter.</p>

		<p>What time periods would be acceptable to the local authorities? Justify your position.</p>	<p>For example, paragraph (2)(b) previously required notice of commencement at least 30 working days prior to the anticipated date of commencement. 30 working days is 6 weeks, including at least 5 weekends (so at least 40 days). This has been shortened in the D6 version to 28 days.</p> <p>The table below sets out the changes that the Authorities are seeking, reflected in the Part C to the Authorities “Consolidated dDCO Submissions” submitted at Deadline 7. In the table, the references to days are not “business days”.</p> <table border="1" data-bbox="1413 695 2147 1044"> <thead> <tr> <th>Paragraph</th> <th>Current period</th> <th>Authorities’ suggested period</th> </tr> </thead> <tbody> <tr> <td>3(2)(a)</td> <td>7 days</td> <td>7 days</td> </tr> <tr> <td>3(2)(b)</td> <td>28 days</td> <td>42 days</td> </tr> <tr> <td>3(2)(c)</td> <td>7 days</td> <td>7 days</td> </tr> <tr> <td>3(2)(d)</td> <td>28 days</td> <td>42 days</td> </tr> <tr> <td>3(2)(e)</td> <td>7 days</td> <td>7 days</td> </tr> </tbody> </table> <p>Note to ExA: Regrettably there were errors in the Authorities’ Deadline 6 Submission [REP6-104] and the ExA is asked to disregard the periods mentioned for subparagraphs (a), (c) and (e) in row 124 of that document.</p>	Paragraph	Current period	Authorities’ suggested period	3(2)(a)	7 days	7 days	3(2)(b)	28 days	42 days	3(2)(c)	7 days	7 days	3(2)(d)	28 days	42 days	3(2)(e)	7 days	7 days
Paragraph	Current period	Authorities’ suggested period																			
3(2)(a)	7 days	7 days																			
3(2)(b)	28 days	42 days																			
3(2)(c)	7 days	7 days																			
3(2)(d)	28 days	42 days																			
3(2)(e)	7 days	7 days																			
DCO.2.23	Applicant Local Authorities	Schedule 11 (Procedures for approvals, consents and appeals)	<p>The Authorities have been engaging with the Applicant on the issue of fees with a view to entering into Planning Performance Agreements (“PPAs”) to cover the additional costs which they would each incur as a result of the</p>																		

		<p>Schedule 11 provides for the payment of fees in respect of a requirement.</p> <p>The Applicant is asked to clarify why paragraph 3(2) of Schedule 11 provides for the repayment of any fee paid to the discharging authority within 35 days of (a) the application is rejected as invalidly made or (b) the authority not determining the application within the determination period when the discharging authority will have incurred costs.</p> <p>The Applicant is additionally asked to explain why this provision should not apply to other consents addressed within the dDCO. Further detail beyond that contained within section 2.7.1.10 of the SoCG between the Applicant and CBC is required [REP5-037].</p> <p>The Local Authorities are asked to confirm what they would consider an acceptable quantum of fee.</p>	<p>Northern Runway Project. This approach is preferred to relying on Part 1 of Schedule 11 to the dDCO and in particular paragraph 3.</p> <p><u>CBC</u></p> <p>As the local authority who would be responsible for discharging the majority of DCO Requirements, CBC has conducted a provisional assessment of the funding which would be required so as to facilitate costs-recovery and avoid incurring additional costs as a result of the Applicant's development.</p> <p>Based on CBC's provisional analysis, it is currently envisaged that the following would be required:</p> <ul style="list-style-type: none"> • £82,000 per annum to fund a full-time principal planning officer based on agency fees (including costs); and • An equivalent sum to cover the costs of other technical officer and/or consultant support as may be required. <p>As such, the initial annual cost has been estimated at £164,000. It must be emphasised that this is a preliminary estimate.</p> <p><u>Quantum for SCC, RBBC and WSCC</u></p> <p>The other Authorities are expecting to recover their actual costs of dealing with requirements (including dealing with applications made to them and dealing with consultations) based on agreed hourly rates, again in separate PPAs for each Authority. The proposed hourly rates for each relevant level of officer are likely to differ between Local Authorities at each level of seniority. It is therefore difficult to provide an overall quantum at this stage. It is the</p>
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			<p>Authorities' intention to continue discussions directly with the Applicant in the hope of agreeing PPAs which are considered reasonable by all parties.</p>
DCO.2.26	Local Authorities	<p>Status of Code of Construction Practice At D5 [REP5-072] the Applicant responded to the Legal Partnership Authorities' response in respect of ExQ1 DCO.1.46 [REP3-135 and REP4-062]. The Applicant's position is that the CoCP and its Annexes cover the items listed in the JLA's response to DCO.1.46. The local authorities are asked if there are any issues identified in its response to DCO.1.46 which are not addressed in the CoCP or its Annexes and if so, what additional information is required and how should it be secured?</p>	<p>The Authorities still have a number of concerns related to the status of the CoCP, including the provision of an outline document. Responses are being provided separately at Deadline 7 on specific documents, including in relation to the Dust Management Plan and the oAVMS.</p> <p>Regarding the issues identified by the Authorities, set out within responses to ExQ1 DCO.1.46 [REP3-135 and REP4-062], some of these are now resolved, but the following concerns remain;</p> <p>Visual impact of construction compounds: The Authorities commented on the ZTVs in section 13 [REP5-117]. It is still considered that while not classed by the Applicant as a Main Construction Compound and therefore excluded from this submitted assessment [REP4-040] that due to the proximity to residential properties and relatively open nature and appearance of the countryside the Reedbed compound (linked to Works 43) should be addressed and more detailed information provided about the layout of this works compound. This compound is completely disregarded in the Code of Construction Practice [REP4-007].</p> <p>The Authorities welcome the proposal from the Examining Authority to include the details of the site compounds within the Design Principles control document and hope to consider the additional detail provided by Deadline 8 (assuming submission by the Applicant at Deadline 7).</p>

			<p>The Authorities remain concerned about the nature of the works proposed at Pentagon Field. The impact on footpath 359Sy is still unclear following the Applicants recent note on Pentagon Field [REP5-078] and there remain concern about the lack of control over the landform, it appearance and potential dominance from the nearby footpath and nature of activities that are proposed to take place on this site impact on users such as run-off and dust. A detailed response relating to this site was provided by the West Sussex Authorities at Deadline 6 [REP6-116]. While the Applicant suggests 359Sy would not require a temporary stopping up order or closure, the path safety would be compromised by the construction access (the precise location of which is still unclear) and the use of which it is stated would require the provision of a banksman (see 1.4.4) [REP5-078]. There is no reference to the impacts on this footpath within the Public Rights of Way Management Strategy [REP2-009] even though it is referenced in the Code of Construction Practice para 5.12.7 [REP4-008] that such detail is included.</p> <p>Tree Loss:</p> <p>Given the new Requirement 28 within the dDCO, concern for the appropriate measures of approval for detailed AVMS has been alleviated.</p> <p>The West Sussex Joint Local Authorities raised concerns regarding the extent of tree removal across the entire Project within [REP3-117] (p.55-56) and is reiterated within our Deadline 7 submission. To summarise for compounds:</p> <ul style="list-style-type: none">• The extent of tree loss proposed within the Longbridge Roundabout Contractor Compound is considered to be excessive and much appears unnecessary;
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			<ul style="list-style-type: none">• Tree group G16 needs to be accounted for in full and a 12m wide loss is considered excessive for access only (situated in the line of the haul road access for Airfield Satellite Compound);• Further, protection or cultivation of soils within the proposed new landscaping areas of the Car Park B Compound has not been appropriately considered and needs addressing. <p>Proposed tree/woodland removals require further review for the entire Project to ensure that removals are present a realistic worst-case scenario as opposed to abusing the flexibility afforded to the Applicant.</p> <p>Ancient Woodland Control measures within the CoCP for buffer zones of ancient woodland are recognised and appropriate. However, figure 5.2.1e of the Project Description Figures [REP6-016 G] (version 4) continues to show the indicative location of the foul water pipeline within the buffer zone of Horleyland Wood (ancient woodland). This does not reflect control measures stated within the oAVMS [REP6-018] (Annex 6 of the CoCP). The applicant should demonstrate a suitable location for the pipeline which is achievable with all surrounding constraints and any control measures required within the CoCP.</p> <p>Tree protection measures Whilst arboricultural protection measures proposed within the CoCP are considered appropriate, concern remains with regard to the viability and practicality for control measures proposed for Horleyland Wood (ancient woodland).</p>
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			<p>Dust Management Plan A small number of outstanding points remain for the DMP and these are being submitted by the Joint Local Authorities at Deadline 7, which outlines the current position on the Applicant's DMP.</p> <p>Online noise and dust reporting The West Sussex Authorities commented on this document [REP5-117] and requested that this be further developed during the course of the Examination.</p> <p>Self-service portal for complaint recording and monitoring The high likelihood of complaints resulting from activities at Pentagon Field was flagged by the West Sussex Authorities Section 12.10 [REP6-116].</p> <p>Construction noise barriers Acoustic barriers are relied upon to avoid significant noise effects in the construction noise assessment set out in Chapter 14 [APP-039]. Paragraph 14.9.50 [APP-039] lists the following barriers:</p> <ul style="list-style-type: none">• A23 Brighton Road Bridge – along the southern side of the utilities diversion bridge• A23 London Road Bridge – along the eastern side of the temporary footpath.• Airport Way Rail Bridge – on the northern side of the eastbound carriageway.• Car Park X – along the southern site boundary.
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			<p>These barriers are not secured in the CoCP or the DCO. Specific details of these barriers should be secured through the CoCP including barrier heights and figures showing the alignment of the barriers.</p> <p>Noise and Vibration Management Plan</p> <p>The Authorities are of the opinion that a Section 61 application is not a reliable means to secure elements of the CoCP. A Noise and Vibration Management Plan must be submitted to the host authorities for approval at least 6 months before commencement of any construction activities.</p> <p>The Noise and Vibration Management Plan should contain the following:</p> <ul style="list-style-type: none">• Identification of a dedicated Environmental Manager, with suitable acoustic experience, appointed by the airport, to liaise between contractors and Local Authorities.• The baseline noise monitoring methodology (including justification for monitoring locations) and results.• Details of noise and vibration trigger levels.• Details of best-practicable means including any site-specific mitigation such as barriers.• A piling method statement detailing the type of piling to be undertaken and the methodology by which such piling will be carried out.
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			<ul style="list-style-type: none">• Details of site-specific programmes for noise and vibration monitoring, including the type, location and duration and the method and frequency of reporting the results.• Details of properties that qualify for noise insulation and, where appropriate, temporary re-housing.• Details of the complaints handling procedure.• Details of provision of an online service portal to include:<ul style="list-style-type: none">○ a suitable phasing plan to identify potential high impact noise and vibration areas to be reviewed annually.○ a process to allow complaints to be made online.○ live measured noise data at each monitoring location including compliance targets○ historic noise data to allow host authorities to check noise levels against periods when complaints were made. <p>Further comments on this can be found in [REP4-062], [REP6-099] and [REP6 –101].</p> <p><u>Administering Local Authority Fees</u></p> <p>The Applicant should commit to providing material assistance in administering the Noise and Vibration Management Plan and the Section 61 process through funding for a specific officer.</p>
ECOLOGY AND NATURE CONSERVATION			

<p>EN.2.2</p>	<p>Applicant Local Authorities</p>	<p>Biodiversity Opportunity Areas At ISH8 the Applicant stated that it had not considered ecological enhancement within surrounding Biodiversity Opportunity Areas (BOAs) (other than Gatwick Woods and River Mole) because the surrounding BOAs were too far from the Order limits. The ExA notes that Ifield Brook BOA is shown very close to the Order limits on figure 9.6.2 of [APP-048] and both Grattons Park BOA and the Glover’s Wood and Edolph’s Copse BOA are within 2 kilometres of the Order limits.</p> <p>a. The Applicant is asked to clarify the distances from the Order limits that opportunities for ecological enhancements were considered?</p> <p>b. The Applicant and Local Authorities are asked to comment on whether opportunities for woodland enhancement to mitigate the loss of woodland within the Order limits should be considered within the Ifield Brook BOA, Grattons Park BOA and the Glover’s Wood and Edolph’s Copse BOA?</p>	<p><u>Response to limb b</u></p> <p>The Authorities are firmly of the opinion that off-site woodland enhancement, as compensation for loss of woodland within the Order limits, should be considered within Ifield Brook BOA, Grattons Park BOA and the Glover’s Wood and Edolph’s Copse BOA, and also within the River Mole BOA and Gatwick Woods BOA (both of which lie partially within the Order limits).</p> <p>Such enhancement could comprise measures to enhance the management of existing woodland and the creation of new woodland with particular emphasis on enhancing woodland connectivity. Emphasis should be placed on mitigating impacts on Bechstein’s bats. Glover’s Wood BOA, to the west of the Airport, supports key roost sites, and radio-tracking carried out by the Applicant has highlighted that these bats commute to, and forage within, the Order limits. The Authorities suggest that appropriate measures to mitigate impacts on Bechstein’s bats might include enhanced habitat connectivity within Glover’s Wood and Edolph’s Copse BOA, within the River Mole BOA, and within the landscape between Glover’s Wood and the River Mole. This could comprise new woodland creation, strengthening of existing woodland corridors and the planting of hedgerows to provide linkages between woodlands. Hedgerow planting in strategic locations could greatly enhance habitat connectivity whilst not creating airport safeguarding issues. It is thus suggested that it is considered together with off-site woodland enhancement.</p>
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<p>EN.2.4</p>	<p>West Sussex Joint Local Authorities</p>	<p>Realistic worst-case tree removal In response to comments from the West Sussex Joint Local Authorities, the Applicant has reduced the extent of tree removal along the surface access corridor in the outline Arboricultural and Vegetation Method Statement (oAVMS) submitted at D6 [REP6-018].</p> <p>The West Sussex Joint Local Authorities are asked to comment on whether it is satisfied that the proposed tree removal represents a realistic worst-case? And, if not, identify where requirement for removal has not been demonstrated.</p>	<p>The West Sussex Joint Local Authorities raised concerns regarding the extent of tree removal across the entire project within [REP3-117] (p.55-56). This predominantly relates to the Surface Access Works.</p> <p>Whilst it is noted that the revised Preliminary Tree Removal & Protection Plans (drawing no. 812, appendix A) of the oAVMS [REP6 -018] now identifies G26, G76 and parts of G77 for retention, there are no other tree features identified for retention as a result of the internal review.</p> <p>The Applicant’s response to concerns with the worst-case tree loss is contained within [REP4-028], stating “<i>The current worst-case scenario includes all trees along the M23 corridor that fall within the limits of construction and which are adjacent to the proposed highway works.</i>”.</p> <p>Whilst the proposed Requirement 28 and Design Principle L1 limit tree loss throughout the Project to what has been presented within the oAVMS, the Authorities remain concerned that the Applicant has not provided enough detail as to the Project proposals to demonstrate that a realistic worst-case scenario has been designed for. The Authorities are concerned that the Applicant seeks to maximise the space within ‘construction areas’ to allow maximum flexibility with little consideration of arboricultural features.</p> <p>Further note: In addition to those arboricultural features identified by the Authorities within [REP3-117], a hedgerow stated for removal and replacement for mitigation enhancement exists between the A23 (London Road) and Perimeter Road East which has not been considered by the oAVMS. In addition, the oAVMS also shows H31 and H32 (adjacent Pentagon Field) as retained in full; however given the vehicular activity required, it is</p>
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			suspected that the existing entrance will require partial loss of one or both hedgerows to ensure suitable visibility splays.
HEALTH AND WELLBEING			
HW.2.7	Applicant Crawley Borough Council	Crawley Borough Council Statement of Common Ground Please can row 2.12.3.2 of the CBC SoCG [REP5-037] be reviewed and confirmation provided as to whether this row deals with lack of evidence, adverse noise impacts, air quality or all three topics?	Row 2.12.3.4 of CBC SoCG [REP5-037] contains a typographical error and should read without the update in Column 2 and with no updated position Deadline 3 in Column 3 and deals with the lack of evidence only. In effect should read as per WSCC SoCG row 2.12.3.4 [REP5-055] and be accepted as AGREED.
HW.2.8	Crawley Borough Council	Data sets The ExA notes that at row 2.12.5.2 of the CBC SoCG [REP5-037], CBC has requested that a Health Impact Assessment is undertaken which would robustly assess the potential effects, including physical and mental, on the health of the population, analysis of some of the data on smaller geographies to highlight inequalities, and to make clear the mitigations or that need further consideration. Given that the Applicant has stated that ES Chapter 18 [APP-043] provides data and analysis at ward level, please can CBC confirm which groups they	To clarify, the Authorities are not requesting information on geographies smaller than wards, rather they are seeking information on particular groups within those wards, particularly those with pre-existing vulnerabilities. This is in addition to the potential for further numbers in the future as a result of the Project and ongoing operations. WSCC, responsible for public health, remains of the opinion that, where the Applicant has sought to demonstrate in the documentation that it has reached out to a range of community groups and organisations, there is no mention of vulnerable groups in the context of those with physical or mental health vulnerabilities, the potential numbers within the known vulnerability groups, nor the impacts directly or potentially on these groups. The Authorities have

		<p>are particularly interested in when they reference 'smaller geographies'?</p>	<p>searched relevant documents for key words including 'Vulnerable', 'Hard to reach', 'disabilities', 'disabled', 'hearing', 'ethnic', 'nationalities' with no result.</p> <p>The Authorities question how the Applicant intends to monitor impacts on vulnerable groups and engage with them throughout the Project and subsequent operations, to ensure that residents are aware of the avenues that they can take to raise impacts that the Project has on existing vulnerabilities, as well as new vulnerabilities associated with the Project.</p> <p>The Authorities welcome the Applicant's proposals for a Hardship Fund, although have a number of questions on the eligibility criteria and fund amount.</p> <p>The Authorities also consider disabilities and that the Applicant should develop a communications plan that takes into consideration vulnerable groups, including preparing materials suitable for non-English speaking communities, and those with sight or hearing disabilities, and learning disabilities among others.</p>
HISTORIC ENVIRONMENT			
HE.2.6	<p>Surrey County Council West Sussex County Council</p>	<p>Historical background to the Airport Confirm if the report submitted at D6 by the Applicant titled 'The Historical Development of Gatwick Airport Including a Review of the Extent of Past Ground Disturbance' [REP6-070] is acceptable, or if not, what changes are sought.</p>	<p>The Authorities welcome the provision of this document which provides sufficient information to allow the archaeological specialists to make informed decisions on many of the areas of development.</p>

			<p>A meeting was held on 31st May 2024 with the Applicant’s archaeological consultants and further information was provided following requests made at this meeting.</p> <p>Following consideration of this further information there are development areas where the Authorities still have concerns and which will still require limited further investigation (for example, Car Park H). These areas have been highlighted in writing to the Applicant.</p> <p>It is hoped that the outstanding concerns which have been identified can and will be adequately addressed within the revised West Sussex WSI which has been promised at Deadline 7.</p>
LAND USE AND RECREATION			
LU.2.3	Local Authorities	<p>Pentagon Field Noting your response to ExQ1 DCO.1.39 [REP3-135] and further detail provided in Comments on Responses to ExQ1 - Response to Development Consent Order and Control Documents [REP4-062], are you satisfied with the amends made to the wording of Work No.41?</p>	<p>In their answer to ExQ1 DCO.1.39, the Authorities described this description of works as wholly inadequate. They said that GAL failed to acknowledge the considerable volumes of soil that are to be deposited on the land significantly altering its topography and appearance.</p> <p>In the D5 draft DCO, the Applicant added a paragraph (c) to the description of the work which simply said “(c) create spoil bunds”. In short, this does not satisfy the Authorities on this point, given the absence of detail in other documents.</p> <p>The West Sussex Authorities provided a detailed response at Deadline 6, Section 12, [REP6-116] to the Applicants note on Pentagon Field [REP5-078]</p>

			<p>and still remain concerned about what is proposed for the site with a works description which does not sufficiently describe the level of development that is taking place. The Authorities' suggested alternative wording for Work No 41 is contained in Part C of the Authorities' Consolidated DDCCO submissions at D7.</p>
<p>LU.2.5</p>	<p>Crawley Borough Council</p>	<p>Museum Field The ExA notes the comments made by CBC at row 2.1.4.2 of the SoCG [REP5-037] in respect of the view that a footpath link direct onto Horley Road would be beneficial to allow public access to the land. The Applicant confirmed in response to ExQ1 LU1.13 [REP3-096] and at row 2.1.4.2 of the SoCG [REP5-037] that a review in respect of the provision of such a pedestrian access was undertaken but would not be feasible for several reasons, including pedestrian safety.</p> <p>Taking these factors into consideration, does CBC still consider a direct pedestrian link onto Horley Road to be necessary?</p>	<p>A meeting took place on 9th July 2024 between the Applicant, an Officer from CBC Planning, and the Public Rights of Way Officers from Surrey County Council and West Sussex County Council to discuss provision of a potential public access onto Horley Road.</p> <p>The CBC position remains that such a link is highly desirable to allow greater public accessibility to this informal open space /managed ecological area. At this meeting it was agreed by those in attendance that it would be beneficial for a new access to be provided to access this land from Horley Road, as the current permissive route links to the Sussex/Surrey Border path a considerable way further to the north. This would encourage access to this land for nearby residents. A footpath is present on the northern side of Horley Road for pedestrians to cross the road and access the land.</p> <p>The matter is currently with Surrey County Council to investigate whether there are any highway safety objections to the creation of a point of access in this location and whether a further safety audit is required. CBC therefore maintain that a direct pedestrian link onto Horley Road is necessary and remain hopeful that this link as a permissive path to Museum Field can be achieved.</p>
<p>NOISE AND VIBRATION</p>			

<p>NV.2.4</p>	<p>All IPs</p>	<p>Off-site mitigation To what extent could relevant authorities, including local planning authorities, play a role in, for example, reviewing the forecasts of premises identified as eligible, involvement in community engagement including support with special cases, and approving proposed designs with regard to relevant standards, to assure consistency with the first aim of noise policy as set out in the ANPS at para 5.68?</p>	<p>There is an expectation by the Authorities that they will be fully involved with the scheme of mitigation through a scrutiny group either through the Environmental Scrutiny Group proposed in the JLA Environmentally Managed Growth Framework [REP6-100] or through a separate mitigation group if EMGF is not adopted.</p> <p>This role is consistent with statutory responsibilities incumbent on the local authorities and any that may be bestowed under the DCO.</p> <p>It is expected that this group would form the basis for formal consultation, engagement and either approving (with amendment as required) or making recommendations to the relevant authority.</p> <p>The scope of such involvement would include:</p> <ul style="list-style-type: none"> • The approach to community engagement • Annual review and scrutiny of predictions for airport operations, the resultant noise levels and the nature of the mitigation. • Approval of the internal standards to be achieved consistent with national noise and aviation policy • Any decision-making principles in how the scheme is administered and the setting and monitoring of appropriate performance targets. • The agreement of programmes to assess the adequacy and performance of the scheme to identify improvements. • The agreement of changes which may be needed to the scheme to take account of changes to science, policy, legislation and the monitoring of the efficiency of the scheme.
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			All costs incurred by the Authorities would need to be covered by the Applicant.
NV.2.8	All IPs	<p>Noise limit reviews</p> <p>Whilst routine periodic reviews and extraordinary reviews are considered in R16 in conjunction with Section 8 of Appendix 14.9.7: The Noise Envelope Version 2 [REP5-029] to what extent could this be sufficiently detailed in requirement(s) that allows for both routine periodic reviews and the extraordinary reviews?</p> <p>How often should routine reviews take place?</p> <p>Who should be able to initiate an interim/extraordinary review?</p> <p>Who should participate in them and how?</p> <p>What would be the scope of such reviews?</p>	<p>Paragraph 5.60 of the ANPS sets out policy requirements for a Noise Envelope. It states that: “<i>Suitable review periods should be set in consultation with the parties mentioned above to ensure the noise envelope’s framework remains relevant</i>”. As such, noise limit reviews should be undertaken regularly throughout the lifespan of the Noise Envelope. Additionally, a review should be undertaken at an early point after the NRP is operational so any new trends can be accounted for. This is particularly important so that the Noise Envelope remains relevant, as per policy requirements.</p> <p>Requirement 16 of Schedule 2 of the Draft DCO [REP6-005] secures the review period for the Noise Envelope with reference to section 8 of the Noise Envelope [REP6-055]. Paragraph 8.1.2 [REP6-055] states: “<i>...the noise envelope limits are to be set for the first 14 years of dual runway operation, to provide certainty of what will be achieved in the initial opening period, and every 5 years thereafter the limits will be subject to a review to ensure they remain relevant</i>”.</p>

			<p>This contradicts information in section 6 [REP6-055], which is only referenced in the DCO when defining the term 'noise limits'. The Authorities would like some clarification on what the Applicant is committing to in terms of reviews.</p> <p>The Authorities consider it reasonable for there to be routine reviews of the Noise Envelope every 5-years and aligned with the Noise Action Plan with the first review undertaken no later than 3-years after commencing dual runway operations. This early review would allow the Noise Envelope to be relevant for the early period of opening based on emerging fleet trends and movement numbers.</p> <p>Reviews could be triggered by future aircraft, approval of an airspace change, or an event outside the airports control. The Authorities are of the opinion that they should form part of an Environmental Scrutiny Group, which would be consulted regarding an extraordinary review. Either the Applicant or the ESG could initiate an extraordinary review with a view to reducing noise limits.</p> <p>Extraordinary reviews should be undertaken only with the intention of reducing noise limits. There should be no circumstances where there is a permanent increase in noise contours limits to provide communities with certainty regarding the level of noise they can expect in the future.</p> <p>The consideration of "force majeure" was discussed at the noise envelope group. This was in the context of a defence to an exceedance of a noise limit rather than provision for an increase in the noise contour limits.</p>
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			<p>It is important to allow noise contours to be contextualised through provision of noise data from individual aircraft. This would allow any material changes in aircraft noise levels to be identified, which is important to understand when future aircraft come into service or in the event of a force majeure. It is requested that the Applicant provide the measured SEL and LAmax noise levels logged as part of their Noise and Track Keeping system. This data should cover the aircraft that make up 75% of the total noise energy as per CAP2091. The data should be provided in the Annual Monitoring and Forecasting Reports.</p>
Socio-economic effects			
SE.2.7	Applicant East Sussex County Council	<p>Employment Skill and Business Strategy – mitigation and compensation Please review row 2.19.4.2 of the East Sussex County Council SoCG [REP5-039] and confirm whether the status of ‘agreed’ is correct?</p>	<p>This issue has not been agreed.</p> <p>As noted in the Stakeholder position - Updated position (Deadline 5): the current version of the ESBS [APP-198] does not include specific mention of ‘links to Careers Hubs working with schools across Surrey, West Sussex and East Sussex’. The document still only refers to Coast to Capital Local Enterprise Partnership Careers Hub, which no longer exists and has now been subsumed by West Sussex County Council.</p>
SE.2.12	Applicant Local Authorities	<p>Local Authority Level Assessments In respect of local level effects, the ExA notes the response to ExQ1 SE1.18 [REP3-103] by the Applicant and the content of ES Appendix 17.9.2: Local Economic Impact Assessment [APP-200]. The</p>	<p>There has been no movement or progress with the Applicant in terms of local level effects. The Authorities position remains as described in previous submissions. The Authorities have raised several issues with the lack of local impact analysis undertaken for the socio-economic assessment. The lack of local impact analysis is a major issue as it means the assessment does not</p>

		<p>responses given by the Applicant during ISH3 regarding this matter ([REP1-058], [EV8-001] and [EV8-002]) insofar as the assessment was undertaken at the functional market area level is also noted. Additionally, the content of ES Appendix 17.6.1 Socio-Economic Data Tables [APP-197], in respect of the context of potential impacts within specific administrative boundaries, is acknowledged.</p> <p>The ExA also acknowledges that ES Appendix 17.9.3: Assessment of Population and Housing Effects [APP-201] contains a housing assessment at the local authority level and construction employment at the local authority level is provided in ES Appendix 17.9.1: Gatwick Construction Workforce Distribution Technical Note [APP-199].</p> <p>The ExA understands that the Applicant is maintaining their position insofar as the functional market area level is considered the correct level to undertake the socioeconomic assessments. Despite this, the ExA remains concerned that several of the local authorities consider that the assessments undertaken to inform ES Chapter 18 [APP-042] do not provide sufficient information at a local level to satisfactorily inform of specific local level socio-</p>	<p>consider socio-economic consequences at the local level resulting from the Scheme. These concerns have been raised at several Topic Working Group meetings prior to the submission of the DCO and then through the examination process. The Applicant has replied saying that a local impact assessment is not required- the Local Authorities have not received an explanation from the Applicant on why they consider this is not required and retain the position that a local impact assessment is needed.</p> <p>No future meetings have been scheduled by the Applicant to discuss these matters and therefore the JLAs are not optimistic that these issues are capable of being resolved prior to the end of the Examination.</p>
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		<p>economic effects. This remains a recurring theme raised by the several of the local authorities at each of the Examination deadlines. Related to this is also a level of concern raised by local authorities in respect of the sensitivity and magnitude criteria for several socio-economic receptors.</p> <p>The ExA notes that discussions in relation to these issues are ongoing and is aware of the details provided by all parties in answer to various ExQ1 questions, the discussions held during ISH3 and the content of the SoCGs and PADSS. The ExA however requests that a high-level update is provided by all parties in respect of these issues, to include details of whether future meetings are planned to discuss these matters and a realistic view as to whether this issue is capable of being resolved prior to the end of the Examination.</p>	
SE.2.15	Horsham District Council	<p>Cumulative assessment</p> <p>The ExA notes Horsham DC’s continuing concern that the local impact on labour supply issues resulting from cumulative developments has not been adequately explored by the Applicant (Row 2.20.3.7 of [REP5-041]).</p>	<p>The concern raised by Horsham District Council (the Council) relates specifically to the impact that labour supply may have on the ability of the Project and construction across large scale development in the area to come forward as planned.</p>

		<p>In response to this, the Applicant has stated that a bottom-up cumulative assessment of construction activity over the next 10 years would show significantly more labour available than there is demand because most construction projects over that time period are not yet planned (Row 2.20.1.3 of [REP5-041]) and that construction employment detail is listed in ES Appendix 17.9.1: Gatwick Construction Workforce Distribution Technical Note [APP-199] and an assessment of effects provided is at different spatial levels including FEMA is provided within Table 17.6.6 and Section 17.9 of ES Chapter 17 [APP-042]. Additionally, the Applicant has also provided a labour supply analysis at different spatial scales in Section 5 of ES Appendix 17.9.3: Assessment of Population and Housing Effects [APP-201].</p> <p>Please can the Council confirm the specific inadequacies in the information provided to date and specify what assessment they consider necessary in respect of cumulative effects.</p>	<p>In essence, the Council is concerned that the Applicant has not done the following, nor explained how submissions to date a suitable alternative approach to that are requested by the Authorities:</p> <ol style="list-style-type: none"> a. Demonstrated the use of the most up-to-date or realistic worst-case scenarios for the quantum of development likely to be delivered alongside the construction phase of the Project, taking into account feedback from the Council in relation to the CEA during the pre-examination stage, and during the examination. For example, the trajectory information used by the Applicant for Horsham District Council is based on the 2020/2021 Authority Monitoring Report and uses data published in 2021, despite more recent trajectory information and data on specific sites being available in advance of the Examination. This is the case across other local planning authorities listed in Table A3.1 of ES Appendix 17.9.3 [APP-201]. b. Considered the Project and its construction labour workforce, in addition to the other development likely to come forward, in a manner which takes into account those sites' proximity to the Project, their development trajectories, and the likely nature of the schemes. The Council considers this is necessary if the Applicant is to demonstrate that there is no risk to workforce availability at specific points, and in the spatial areas where the workforce will realistically be drawn from or move between.
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			<p>While the Council has noted the breakdown of information provided by the Applicant in response to these concerns, the data is either not specific to the construction labour market specifically (as in Chapter 17 Appendix 17.9.3 [APP-201]), or does not address the cumulative effects of development on the availability of construction labour (as with the analysis presented in ES Appendix 17.9.1: Gatwick Construction Workforce Distribution Technical Note [APP-199]).</p> <p>In the Applicant's Response to Local Impact Reports Appendix D – Construction Labour Market and Accommodation Impacts [REP3-005] it states that the Authorities have incorrectly characterised the construction labour market as one where there are fixed roles and numbers of workers which are increased by the existence of the Project. The submission also concurred with the Authorities that there will be a number of infrastructure projects underway which will be drawing from the same pool of specialist construction workers (para 2.3.6 to 2.3.8). This is true both across major infrastructure projects, but also in local infrastructure schemes required to support the delivery of larger housing development directly, and indirectly to support levels of growth in the area. This is contrary to the Applicant's statement in ES Chapter 17 [APP-042] that the other development under consideration in the CEA "<i>relate primarily to housing and some commercial developments which by their nature may require construction workforce comprising different skills and trades compared to the profile of workers likely to be demanded by the Project</i>" – an assertion the Council has yet to see justification for.</p> <p>Commentary provided in The Applicant's Response to Local Impact Reports Appendix D – Construction Labour Market and Accommodation Impacts</p>
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			<p>[REP3-082] discusses the dynamic and itinerant nature of the construction workers in relation to sites on which they are employed.</p> <p>The Council, therefore, is seeking sight of analysis which takes a local level view of the construction workforce required for the Project, and other development under the CEA, and demonstrates that there is no risk to the delivery of housing in and around the District as a result of the Project.</p>
TRAFFIC AND TRANSPORT			
TT.2.3	Local Authorities	<p>Future Baseline Sensitivity Analysis - Traffic and Transport</p> <p>Are the local authorities satisfied that the commentary on the effects of the future baseline sensitivity analysis [REP5-081] provides an accurate assessment of the possible effects on all factors that are covered within Chapter 12 of the ES.</p>	<p>REP5-081] provides an assessment of the possible environmental effects of the revised future year baselines in summary form, and it covers the relevant topics.</p> <p>The Authorities seek more details and have made further comments on [REP5-081] which are contained within the Deadline 6 Submission ‘Comments on any further information/ submissions received by Deadline 5’ [REP6-099]. Section 10, on page 22 of this submission, covers the comments on traffic and transport. See also Joint Surrey Councils’ Deadline 6 Submission ‘Comments on any further information/ submissions received by Deadline 5’ [REP6-101].</p>
TT.2.5	Applicant West Sussex CC Crawley BC Reigate and Banstead BC	<p>Draft Section 106 Agreement Schedule 3 – Transport Mitigation Fund Decision Group</p> <p>Explain how any disputes in respect of Schedule 3 of the draft Section 106 Agreement [REP2-004] the Transport Mitigation Fund Decision Group would be</p>	<p>The specific mechanics as to how the Transport Mitigation Fund will be distributed are still being queried by the Joint Local Authorities and concerns remain as to how decisions are to be made by the Transport Mitigation Fund Decision Group. The current proposal in the draft DCO Section 106 Agreement is that the TMFDG will make its own terms of reference for review and determination as to the applications to the TMF. Decisions of the TMF</p>

		<p>resolved and also the likely timescales for dispute resolution.</p>	<p>must (as currently drafted) be unanimous and the Joint Authorities have in particular raised concerns with this aspect of the process. The Joint Authorities will continue to engage with the Applicant to seek an agreeable solution with the idea of setting parameters in the agreement by which decisions of the TMFDG must be made.</p> <p>Paragraph 8.8 of Schedule 3 states that clause 10 (Resolution of Disputes) of the draft S106 agreement applies to any decision by a member of the TMFDG which is also party to the S106 agreement. This would therefore not apply to all members of the group including National Highways and Network Rail, as they are not proposed to be signatories to the S106.</p> <p>The dispute resolution clause (clause 10) sets out that, should a matter not be able to be resolved between the parties at senior management level any of the parties may refer the matter to arbitration. The matter shall be referred to an independent expert whose decision shall be final and binding. The costs of this expert shall be payable by the parties of the S106 in such proportion as the expert determines. Once an expert is appointed to act they must reach a decision and communicate it to the parties not more than 28 Working Days from the date of appointment.</p>
<p>TT.2.11</p>	<p>Applicant Joint Surrey Councils</p>	<p>Active Travel Access to Airport The Joint Surrey Councils [REP6-101] in response to [REP5-072] TT.1.23 p181 express a number of outstanding concerns with respect to the inadequacy of the active travel infrastructure being proposed. The ExA noted the response [REP3-104]</p>	<p>The Authorities agree with the ExA in relation to increasing permeability and active travel access that could be realised by the new crossing on the A23.</p> <p>Surrey County Council has requested improvement of the AT route which runs between Horley and the North Terminal. This route runs through Riverside Garden Park between the new A23 signalised crossing and</p>

		<p>to TT.1.27, but also understands the concerns of the Joint Surrey Councils. The ExA notes the improved shared route from Longbridge roundabout but also appreciates that this is along a busy dual carriageway. In terms of tree loss, the ExA notes that there will be considerable impact along the A23 on the boundary of the Riverside Park.</p> <p>Is this therefore the right time to look at increasing permeability and active travel access that could be realised by the new crossing on the A23?</p>	<p>Riverside Garden car Park and is the most direct route between Horley and the North Terminal.</p> <p>As a reminder, Surrey County Council's other outstanding concerns with respect to the inadequacy of the active travel infrastructure being proposed are:</p> <ul style="list-style-type: none">a. The inadequacy of sections of the AT route via Longbridge Roundabout with sections over the River Mole bridges being provided as shared use rather than segregated;b. Non-improvement of the AT route between Horley and South Terminal from the end of The Crescent through Car Park B west of the railway as this is the most direct route between Horley and the South Terminal;c. Non-improvement of the AT route across the railway line south of the A23, as there is no cycle crossing provision between Victoria Road and Radford Road.
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<p>TT.2.12</p>	<p>Applicant National Highways Highways Authorities</p>	<p>Active Travel Access to Airport The North and South Terminal Roundabouts BAU Improvement Scheme Plans [REP6-012] show concept designs for signalisation of the north and south terminal roundabouts.</p> <p>Should there be controlled pedestrian and cycle crossings on any elements of these design layouts to enable safe active travel around the airport?</p>	<p>The proposed highway works to the North and South Terminal Roundabouts are not within WSCC's or SCC's highway network and are within National Highway's network or within the Applicant's control.</p> <p>Notwithstanding these works are on National Highway's network, the Authorities have the following views on pedestrian and cycle access.</p> <p>Given the nature of the road network at South Terminal Roundabout and given that there are no existing pedestrian or cycle desire lines, there is not considered to be a need for formal crossing points at this location.</p> <p>At North Terminal Roundabout consideration could be given to pedestrian crossing improvements given existing desire lines. These could be at North Terminal Approach, on the pedestrian desire line underneath the structure that carries the Gatwick Airport Shuttle Transit and then connects into the footway that leads towards Northway. Secondly, consideration could be given for pedestrian crossing enhancements at Longbridge Way to implement a crossing over Longbridge Way, that provides an onwards connection to footpath 346_2Sy.</p> <p>Given the location and likely use of these crossings they may not be signalised controlled crossings but footway enhancements with dropped kerbs, tactile paving, and pedestrian refuges. However, these would be most beneficial/should be provided as part of a wider active travel network rather than standalone features.</p>
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Appendix 1: Response to CC2.1

Finch v Surrey County Council: Implications for the Gatwick Northern Runway Project DCO Examination

ExQ2, CC.2.1: The Supreme Court has recently (20 June 2024) handed down judgment in the case of R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents). At ISH6: Climate Change the ExA noted that the Applicant had responded to comments made by IPs relating to downstream emissions by reference to the Finch case in written submissions (see [REP3-072]) [REP4-032].

Following the Supreme Court judgment, all parties are invited to comment on the relevance or otherwise of this decision to the Applicant's DCO application.

The EIA Directive and Regulations

- (1) Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU ("**the EIA Directive**") is implemented domestically via the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for applications under the Town and Country Planning Act 1990 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("**the Infrastructure Planning Regulations**") for projects under the Planning Act 2008.
- (2) Article 3(1) of the EIA Directive and regulation 5(2) of the Infrastructure Planning Regulations provide that where an EIA is required, it must include the assessment of "direct and indirect significant effects" of a project on a range of environmental factors including climate.
- (3) Regulation 4(2) provides that "Where this regulation applies, the Secretary of State or relevant authority (as the case may be) must not [...] make an order granting development consent [...] unless an EIA has been carried out in respect of that application."

Key elements of the majority judgment in *Finch*:

- (4) The question in *Finch v Surrey County Council* [2024] UKSC 20 was whether the eventual 'scope 3' greenhouse gas ("**GHG**") emissions from the combustion of the oil extracted from an oil drilling project must be included within the EIA for that project as an indirect significant effect on climate. This section summarises the findings of the majority of the Supreme Court, as set out in Lord Leggatt's judgment.
- (5) The Environmental Impact Assessment ("**EIA**") Directive and its domestic implementing regulations must be interpreted in their proper context (§11). That context includes the key principles underlying the EIA regime (§§12-17) and related principles of international law, such as the Aarhus Convention. Central among these principles is the importance public participation in environmental decision-making (§§18-21).
- (6) The question of what constitutes an 'effect' of a project in EIA terms is a matter of law and causation, not a matter of planning judgement as the Court of Appeal had considered it to be (§§65, 131–139). The Court pointed to several potential legal thresholds for causation, and seemingly preferred a lower threshold than the strict 'necessary and sufficient condition' test (§§67–71). However, it concluded that by any definition of causation, downstream combustion

emissions are effects of an oil extraction project, since they were agreed between the parties to be inevitable (§§79–80).

- (7) Ease of assessment is also a relevant factor to whether an impact must be assessed as an effect of a project and “only effects which evidence shows are likely to occur and which are capable of meaningful assessment must be assessed” (§167). In *Finch* all parties were agreed that the downstream emissions were capable of assessment through an agreed methodology.
- (8) The Environmental Statement (“**ES**”) in the *Finch* case was flawed because it assessed only direct emissions from the operation of the site and not downstream combustion emissions and the decision to grant planning permission for the project was therefore unlawful (§174).
- (9) It was irrelevant that there were to be intermediate stages of refinement of the oil (§§118, 134) or that its end use was outwith the control of the developer (§§102–103).
- (10) It was also irrelevant to the validity of the EIA that other pollution control regimes might exist or that national planning policy (currently para 194 of the NPPF) sets out a planning presumption that such regimes should be assumed to operate effectively (§§106–111). Lord Leggatt held at §108 that:

“It was a clear legal error to regard this aspect of planning policy as a justification for limiting the scope of an EIA. An assumption made for planning purposes that non planning regimes will operate effectively to avoid or mitigate significant environmental effects does not remove the obligation to identify and assess in the EIA the effects which the planning authority is assuming will be avoided or mitigated.”
- (11) It should be noted that, although the question of whether a downstream impact is an effect of a project is now understood to be a matter of law, the question of whether it is likely to be *significant* is still a matter of planning judgement for the decision maker.

Applicant’s previous position with respect to scope 3 emissions and *Finch*

- (12) The Airports National Policy Statement (“**APNS**”) directs that carbon emissions from airport expansion proposals will fall into four categories: construction; airport buildings and ground operations (“**ABAGO**”); surface access; and aviation.
- (13) **Aviation emissions:** As detailed in Section 16.4 of ES Chapter 16: Greenhouse Gases [APP-041], the EIA for the Northern Runway Project currently includes an assessment of all emissions from the taxi and take-off, climb, cruise and descent (“**CCD**”) and landing stages of outward flights, but excludes emissions from inward flights (Table 16.4.2, p.16–22).
- (14) The rationale for the scope of the assessment in respect of aviation emissions is set out as follows:

“16.4.15 There is currently no internationally agreed way of allocating international aviation CO2 emissions to individual countries. However, the UNFCCC provides a recommended approach, which is to allocate aviation emissions to the country of departure. The UK emissions inventory does not currently include international aviation emissions in the emissions total for the UK, although they are included as an additional memorandum item (in line with international reporting protocols under the UNFCCC).

16.4.16 The approach adopted in the ES has been to include within the scope of the assessment the emissions associated with outward flights only. This approach takes into account the taxi out and take-off from Gatwick, the CCD aloft emissions for those outward flights, and the land and taxi-in emissions at the other airport.

This effectively allocates emissions to the departing airport location (even though the emissions relating to land and taxi-in will in fact arise away from Gatwick) and avoids double counting at a national and international level.”

- (15) The methodology used for calculating scope 3 emissions is set out in [APP-194], Appendix 16.9.4: Assessment of Aviation Greenhouse Gas Emissions.
- (16) **Well-to-Tank emissions:** These are upstream GHG emissions which arise from the production, processing and delivery of a fuel or energy vector. They were initially excluded from the assessment of GHG emissions across construction, ABAGO, surface access and aviation (see [REP3-072], p.62). This was because aviation well-to-tank (“WTT”) emissions fall outside the scope of the contextualisation exercises required by Jet Zero, and it was decided to exclude WTT emissions across the other areas of emissions set out in APNS for the sake of consistency.
- (17) In REP4-020 at Appendix B, the Applicant submitted a technical note in response to comments from interested parties (as summarised in [REP3-072]), providing quantification of WTT emissions across construction, ABAGO, surface access and aviation.
- (18) Having quantified the overall WTT uplift for aviation emissions, the note goes on to contextualise this against the UK’s carbon budgets and within the boundary of the wider system for apportionment of international aviation emissions in relation to carbon budgeting ([REP4-020], section 1.4).
- (19) **Previous comments on Finch:** The Applicant commented briefly on the potential impact of *Finch* in REP3-072 before the Supreme Court judgment was handed down. It stated:
- “This development challenged in Finch – a facility for the extraction of hydrocarbons – differs significantly from the Northern Runway Project. In any event, and as detailed in Section 16.4 of ES Chapter 16: Greenhouse Gases [APP-041], the EIA for the Northern Runway Project has taken a conservative approach to assessing GHG emissions to avoid underestimation of impact. The assessment factors in all emissions from the take-off, climb, cruise and descent and landing stages of outward flights.”*

The position after Finch

- (20) The JLA’s take the view that the majority judgment in *Finch* is likely to indicate that CCD emissions for inbound flights ought to be assessed as part of the EIA process.
- (21) It has not been suggested by the Applicant that such emissions would not be capable of meaningful assessment, so the ease of assessment factor is not in play.
- (22) As regards causation, given that CCD emissions from outbound flights were deemed to be effects of the project by the Applicant, it would seem that the necessary relationship of legal causation between the CCD emissions from inbound flights and the project also exists.
- (23) The fact that there exists a recommended approach for the international allocation of aviation emissions to the country of departure for the purposes of carbon budgeting does not alter the requirement for all indirect effects of the project on climate to be assessed (per *Finch* §§106-111). However, the planning presumption that other pollution control regimes will operate effectively (NPPF 194) will still be a material consideration, and it may be that the quantified assessment of CCD emissions from inbound flights makes no difference to the ExA’s ultimate

decision. That potential outcome does not, however, provide a cogent reason post-Finch for not including those emissions in the EIA assessment.

- (24) The quantification of CCD emissions for inbound flights could still be contextualised, as the quantified WTT emissions for aviation were in the technical note submitted as part of REP4-020.
- (25) There may be potential issues around substitution of emissions if modelling indicates that inbound flights would likely have flown anyway without the NRP, just to a different airport. In the majority judgment in *Finch*, Lord Leggatt left the door ajar for effects of a project to be excluded if there is sufficient evidence available to conclude that they will not be significant *before* they have been assessed (§138). The judgment stops short of endorsing that position, however, and any exclusion from the EIA based on such a supposition would likely be at risk of legal challenge.
- (26) The forthcoming case of (1) *FOE* (2) *SLACC v (1) SSLUHC* (2) *West Cumbria Mining* may provide a further indication of the relevance of substitution of impacts, but a judgment is unlikely to be handed down before the Examination concludes. The Secretary of State has withdrawn its defence to that claim in the aftermath of the Supreme Court judgment in *Finch*, concluding that there was an error of law in the permission for a metallurgical coalmine where the ES did not include scope 3 emissions. This was notwithstanding the fact that the developer's case was that coal extracted from the mine would substitute entirely for imported coal. However, the judicial review hearing is still due to go ahead on 16-18 July 2024, with the developer continuing to defend the claim.