



**Horsham
District
Council**



GATWICK AIRPORT NORTHERN RUNWAY PROJECT

Planning Inspectorate's Reference: TR020005

Legal Partnership Authorities

CONSOLIDATED SUBMISSIONS ON THE DRAFT DEVELOPMENT CONSENT ORDER

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

CONSOLIDATED SUBMISSIONS ON THE DRAFT DEVELOPMENT CONSENT ORDER

INTRODUCTION

The Legal Partnership Authorities are comprised of the following host and neighbouring Authorities who are jointly represented by Michael Bedford KC and Sharpe Pritchard LLP for the purposes of the Examination:

- Crawley Borough Council
- Horsham District Council
- Mid Sussex District Council
- West Sussex County Council
- Reigate and Banstead Borough Council
- Surrey County Council
- East Sussex County Council; and
- Tandridge District Council.
-

In these submissions, the Legal Partnership Authorities may be referred to as the “*Legal Partnership Authorities*”, the “*Authorities*”, the “*Joint Local Authorities*” (“*JLAs*”) or the “*Councils*”. Please note that Mole Valley District Council are also part of the Legal Partnership Authorities for some parts of the Examination (namely, those aspects relating to legal agreements entered into between the Applicant and any of the Legal Partnership Authorities).

Purpose of These Submissions

These submissions concern the Draft Development Consent Order (“**dDCO**”) submitted by the Applicant at Deadline 6 [REP6-005]. The purpose of these submissions is to signpost the ExA to the Legal Partnership Authorities’ key concerns regarding the dDCO in advance of publication by the ExA of a Proposed Schedule of Changes to the dDCO on Wednesday 14 August 2024.

These submissions are formed of three parts:

- **Part A:** Response to the Applicant’s Schedule of Changes to the dDCO at Deadline 6 [REP6-004]
- **Part B:** Comments on the Applicant’s Response to Actions ISH8 - Draft DCO” [REP6-089] and the Applicant’s Written Summary of Oral Submissions ISH 8: Draft Development Consent Order [REP6-083]
- **Part C:** Legal Partnership Authorities List of Proposed Changes to the dDCO submitted by the Applicant at Deadline 6 [REP6-005]

Notwithstanding the content of these submissions, the ExA should note that discussions are on-going between the Legal Partnership Authorities and the Applicant outside of the Examination with a few to resolving some of the matters identified in these submissions. It is hoped that – between Deadline 7 and Deadline 8 – compromises may be reached on some of the issues identified in these submissions and an updated version of Part C to this submission can be provided to the ExA at Deadline 8.

Response to ISH8 Action 23: Action 23 from ISH8 was for the Legal Partnership Authorities and the Applicant to continue “Discussion about outstanding issues relating to descriptions of Works Numbers”. The Legal Partnership Authorities can confirm that discussions have been continuing with the Applicant since ISH8 and have been taken into account where appropriate in these submissions. As noted above, an updated version of Part C to this submission may be provided at Deadline 8 if those on-going discussions result in appropriate solutions being reached to address the Authorities concerns, including in relation to descriptions of Works Numbers.

PART A:

RESPONSE TO THE APPLICANT'S SCHEDULE OF CHANGES TO THE DDCO AT DEADLINE 6

This Part A responds to the Applicant's Schedule of Changes to the Draft Development Consent Order [REP6-004] submitted at deadline 6. The changes set out in the Schedule of Changes are all reflected accurately in the DCO itself [REP6-006] and the revised Explanatory Memorandum [REP6-008]. The Legal Partnership Authorities' comments on the Schedule of Changes therefore apply to those two documents.

Row	Provision	Change made at Deadline 6	Applicant's Reasoning	Legal Partnership Authorities Response
Deadline 6 - General Amendments				
149.	Article 3 (development consent granted by the Order)	(2) Any enactment applying to land within or immediately adjacent to the Order limits has effect subject to the provisions of this Order.	Added following discussions with the JLAs to further clarify the meaning of "adjacent to" and address their concerns regarding the potential scope of this provision.	The Authorities are pleased to see this amendment which addresses one of their points. It is now closed.
150.	Article 14 (temporary closure of streets)	(4) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of any street— (a) without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed; and (b) unless a temporary diversion to be substituted for it is open for use and has been completed to the reasonable satisfaction of the street authority.	Added following discussions with the JLAs to address their concerns with this article.	The Authorities are pleased to see this amendment which addresses one of their points. This specific point is now closed but the Authorities continue to ask that a list of streets to which the article applies be added as a separate Schedule.

151.	Article 40 (special category land)	“specified person” means a person other than the undertaker for whose benefit the replacement special category land or rights are is being acquired.	Amend to correct a drafting error	The Authorities do not have any comments on this amendment.
152.	Article 56 (deemed consent)	(1) If an authority which receives a valid application for consent or approval to which this article applies fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which day after the application was made, it is deemed to have granted consent or approval (as relevant). [...] (4) An application to which this article applies must be made in the same manner as a notice or other document must be served pursuant to article 53 (service of notices) and is deemed to have been made on the date that such a notice or document would be deemed served under article 53.	Amended following discussions with the JLAs to provide greater clarity on the timing of the period after which consent is deemed given. For internal consistency within the DCO, the new article 56(4) refers to the existing service provisions in article 53 (service of notices) and applies these explicitly to applications for consent or approval to which article 56 applies.	The Authorities are pleased to see this amendment which addresses one of their points. This specific point is now closed but the Authorities’ primary request was that the deeming provisions in various provisions of the DCO should be removed entirely and that if the ExA did not agree with that, then the Authorities ask was that “or delayed” be removed from the various obligations on them that approval should not be unreasonably withheld or delayed (eg in article 12(3)). The Authorities understand that further amendments may be forthcoming at D7 and they will consider them.
153.	Schedule 1 (authorised development)	Changes to capitalisation of words.	Capitalisation removed from phrases that are not established location names in order to make clear that the work descriptions are factual descriptions of the proposed works	The Authorities have no comments on this amendment.

			rather than legal terms requiring separate definition.		
154.	Schedule paragraph (interpretation)	2, 1	[...] such agreement is not to be given by the discharging authority save where it has been demonstrated to the satisfaction of the discharging authority that the departure from the previously certified or approved document, or details or obligation does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.	Amended to clarify that in some instances a discharging authority will be 'otherwise agreeing' a departure from an obligation rather than a previously approved document (e.g. requirement 32(2)).	The Authorities have no comments on this amendment.
155.	Requirement (flood compensation delivery plan)	23	(1) Prior to the commencement of the first of Work Nos. 4(a), 4(b), 4(f), 4(g), 4(h), 4(i), 4(j), 14, 23(a), 36(a), 36(b), 36(c), 37(a), 37(b), 37(f) (j) or 37(l) the floodplain works requiring prior mitigation, a flood compensation delivery plan setting out the timeframe for delivering Work Nos. 30(a) (earthworks and works to construct an attenuation storage facility), 31 (b) (constructing a flood compensation area at Car Park X) 38 (a) (constructing a flood compensation area at Museum Field) and 39(a) (divert and extend River Mole course) the fluvial mitigation works—must be submitted to and	Amended so that the requirement accurately reflects the (i) works to be carried out in the floodplain for which prior mitigation is required and (ii) the works which constitute fluvial mitigation. The justification for the works that comprise the 'floodplain works requiring prior mitigation' and the 'fluvial mitigation works' in this requirement is set out in the Flood Compensation Delivery Plan Technical Note (Doc Ref 10.42) submitted at Deadline 6.	The Authorities do not have specific comments on this amendment. Minor comments in relation to Requirement 23 may be raised with the Applicant directly as part of on-going discussions.

		<p>approved by West Sussex County Council (in consultation with the Environment Agency). [...] (3) In this requirement— (a) "floodplain works requiring prior mitigation" means Work Nos. 3, 4(f), 4(g), 4(h), 4(i), 4(j)(ii), 15, 20, 23(b), 23(c), 23(d), 29, 32, 34(a), 34(c), 36(c), 36(e) 36(f), 36(p), 36(q), 36(w), 36(x), 36(y), 37(a), 37(b), 37(f), 37(g), 37(h), 37(i), 37(j), 37(l), 37(m) and 37(n); and (b) "fluvial mitigation works" means Work Nos. 31(b), 31(c), 38(a), 39(a), 39(b), 39(c) and 39(e).</p>		
<p>156.</p>	<p>Requirement 28 (arboricultural and vegetation method statement)</p>	<p>(3) Vegetation or tree clearance must be carried out in accordance with the relevant arboricultural and vegetation method statement approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by CBC (in consultation with MVDC, and RBBC and TDC to the extent that they are the relevant planning authority for any land to which the statement relates part of the said area).</p>	<p>Correcting drafting to ensure paragraph (3) accords with paragraph (1) of this requirement.</p>	<p>The Authorities welcome this amendment and improvement to the drafting.</p>

<p>157.</p>	<p>Requirement 33 (North and South Terminal roundabouts BAU improvement scheme)</p>	<p>New requirement 33: North and South Terminal roundabouts BAU improvement scheme 33.—(1) Prior to the first of— (a) the commencement of dual runway operations; (b) the commencement of the first of Work Nos. 35 (South Terminal Junction improvements) and Work No. 36 (North Terminal Junction improvements); or (c) the third anniversary of the commencement of the authorised development, the North and South Terminal roundabouts BAU improvement scheme must be completed, unless otherwise agreed with National Highways. (2) In this requirement— (a) "North and South Terminal roundabouts BAU improvement scheme" means a scheme of construction, not forming part of the authorised development, to implement traffic signal control and add further entry and exit lane and roundabout circulatory capacity at the North and South Terminal roundabouts, to be agreed with National Highways and to be in general accordance with the</p>	<p>Added at the request of, and following agreement of the wording with, National Highways. This requirement secures the delivery of the 'North and South Terminal roundabouts BAU improvement scheme', a scheme of works not comprised in the authorised development but which forms part of the Applicant's transport modeling.</p>	<p>The Authorities do not have specific comments on this amendment at this time but refer the ExA to their response to ExQ2 question TT 2.12 – in the <u>Legal Partnership Authorities' Response to ExQ2</u>, for further information on their concerns regarding pedestrian and cycle crossings to enable safe active travel.</p>
-------------	--	--	--	--

		<p>North and South Terminal roundabouts BAU improvement scheme plans and the detailed design of which will be agreed separately with National Highways; and</p> <p>(b) "North and South Terminal roundabouts BAU improvement scheme plans" means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.).</p>		
158.	Schedule 13 (informative maximum parameter heights)	Correction of description for Work No. 43.	Drafting correction.	The Authorities do not have specific comments on this amendment at this time.
159.	Schedule 14 (documents to be certified)	<p>Addition of the ES figures and appendices to the documents referenced in respect of the 'environmental statement'.</p> <p>Addition of North and South Terminal roundabouts BAU improvement scheme plans</p>	<p>Added to ensure that where the DCO refers to the 'environmental statement' this includes the full ES including its figures and appendices, which are an integral part of the main chapter text.</p> <p>To reflect new requirement 34.</p>	The Authorities do not have specific comments on this amendment at this time.
Deadline 6 – amendments arising from the Second Change Application				
160.	Article 6 (limits of works)	(3) In constructing Work Nos. 6, 9, 10, 11, 12, 13, 15, 16, 22, 23, 26, 27, 28, 30, 31, 32, and 43 [and 44] the undertaker must not	Work No. 44 is the construction of the wastewater treatment works	The Authorities do not have specific comments on this amendment at this time.

		<p>exceed the maximum heights shown and noted on the parameter plans (these heights being listed for information in Schedule 13 (informative maximum parameter heights)).</p>	<p>comprised in the Second Change Application.</p> <p>Additional wording in the draft DCO relating to Work No. 44 is included in square brackets to reflect that the Second Change Application is an 'alternative' option were the Secretary of State to be minded to include a pre-commencement restriction in the DCO that specifies that no airport growth arising from the Project can be implemented (and wastewater flows discharged) until modelled wastewater flows have been agreed by Thames Water and any necessary upgrade works to Thames Water's network and processing facilities have been implemented, as requested by Thames Water in its representations to date. The Applicant's approach to the Second Change Application is detailed further in the Second Change Application Report (Doc Ref. 10.47). This addition to article 6 reflects that the wastewater treatment works would be subject to a maximum building height specified in the Parameter Plans (Doc Ref. 4.7 v4).</p>	
161.	<p>Schedule 1 (authorised development)</p>	<p>[Work No. 44 Works to— (a) remove existing surface car parking and associated structures;</p>	<p>Added as the new numbered work comprising the Second Change Application.</p>	<p>As with other works, the Authorities consider that there is insufficient detail in the Works and parameter plans to show the lateral and vertical limits of the various elements of the works.</p>

		(b) construct wastewater treatment works.]		Please see the Authorities List of Amendments in Part C to these submissions for further information.
162.	Schedule 2, paragraph 1 (interpretation)	Inclusion of reference to requirement 31(3).	Added to reflect the proposed addition of requirement 31(3).	The Authorities do not have specific comments on this amendment at this time.
163.	Requirement 31 (construction sequencing)	[(3) The commencement of dual runway operations must not take place until— (a) Work No. 44 (wastewater treatment works) has been completed; and (b) an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 for the operation of Work No. 44 (wastewater treatment works), unless otherwise agreed in writing by Thames Water Utilities Limited.]	Added to secure the timing of delivery of Work No. 44 (wastewater treatment works) as part of the Second Change Application.	The Authorities do not have specific comments on this amendment at this time.
164.	Schedule 13 (informative maximum parameter heights)	Addition of Work No. 44.	Added to reflect that Work No. 44 (wastewater treatment works) would be subject to a maximum height parameter.	The Authorities do not have specific comments on this amendment at this time.

Part B:

Comments on the Applicant's Response to Actions ISH8 - Draft DCO [REP6-089] and the Applicant's Written Summary of Oral Submissions ISH 8: Draft Development Consent Order [REP6-083]

1 APPLICANT'S WRITTEN SUMMARY OF ORAL SUBMISSIONS ISH 8: DRAFT DEVELOPMENT CONSENT ORDER [REP6-083]

1.1 Except in relation comments made regarding the Odour Management and Monitoring Plan (which are explored further in relation to Action 27 below), the Legal Partnership Authorities have no comments on the Applicant's written summary of oral submissions at ISH8 on the dDCO.

2 APPLICANT'S RESPONSE TO ACTIONS ISH8 – DRAFT DCO [REP6-089]

2.1 Action Point 24: Provide general view of whether the dDCO would benefit from the level of detail in the latest available dDCO available for the Luton Airport NSIP.

2.2 The Applicant's response states that the current level of detail in Schedule 1 to the dDCO strikes the appropriate balance between specifying the works for which development consent is granted and preserving a degree of flexibility to reflect that the Project's design is not yet finalised, and would be refined post-consent within the bounds of the DCO and the control documents.

2.3 **Legal Partnership Authorities Comment:** The Authorities' maintain their view that more detail should be provided in relation to certain works and/or that more detail should be provided in the works plans and parameter plans.

2.4 Whilst discussions are on-going between the Authorities and the Applicant regarding the specificity of works descriptions, the Authorities proposed amendments to some of the Works descriptions have been set out in **Part C** to these submissions for consideration by the ExA.

2.5 Explanation has been provided on a case-by-case basis for the amendments to works descriptions which the Authorities propose.

2.6 Action Point 25: Respond to JLAs concern about Works 39 and more generally the JLA comments on [REP3- 135]

2.7 The Applicant has responded, noting that the Authorities' comments in [REP3-135] were in response to ExQ1 and were drafted without having seen the Applicant's responses to those questions, which were also submitted at Deadline 3 in [REP3-089]. The Applicant therefore considers that the Authorities' comments have either been addressed in the Applicant's responses to ExQ1 or have been superseded by the Authorities' latest position on Schedule 1 as discussed at ISH8. Additionally, the Applicant indicates that any remaining concerns regarding the level of detail on the Works Plans (Doc Ref. 4.5) when read alongside Schedule 1 of the draft DCO are being addressed through ongoing bilateral discussions.

2.8 **Legal Partnership Authorities Comment:** The Authorities agree that further discussions are ongoing regarding the descriptions of works. However, the Authorities do not agree with the characterisation of their ExQ1 responses to DCO.1.39 as having all been addressed or superseded. As mentioned under Action Point 24, the Authorities have set out an initial list of proposed amendments to some of the works descriptions in **Part C** to this paper alongside explanation as to why a greater degree of specificity is required.

- 2.9 On the Authorities' specific concerns regarding Work 39, the Authorities consider that the Applicant's response to Action 25 – regarding the drainage work and re-alignment of the River Mole – to be satisfactory at this stage, noting that further information will be required at the design phase to provide necessary assurances that the works will appropriately mitigate impacts on drainage and ecology.
- 2.10 Action Point 27: Response on Odour Management and Monitoring Plan (“OMMP”) [REP1-069].
- 2.11 As set out at paragraph 2.3.8 of the Applicant's Written Summary of Oral Submissions at ISH8 on the dDCO [REP6-083], the ExA asked the Applicant a question regarding whether the need for an OMMP has been addressed. The Applicant responded by noting that, in their view, modifications have been made which render the OMMP unnecessary. Paragraph 2.3.9 of the written submissions then refers the ExA to the response to the ExA's Action Point 27.
- 2.12 In their response to Action Point 27, the Applicant argues that compliance with legislation and guidance, paired measures in the CoCP [REP4-007] and draft DCO Section 106 Agreement [REP6-063], means that there would be no significant odour impacts as a result of the Project and so an OMMP is not required.
- 2.13 **Legal Partnership Authorities Comment:** The Authorities have considered the response to the Action Point, and their position remains that an OMMP is required.
- 2.14 As explained in in the Joint Surrey Local Impact Report [REP1-097] from paragraph 11.120 onwards, a previous Odour Impact Assessment conducted by the environmental consultants Ricardo AEA in 2019 identified potential odour impacts arising due to aviation fuel. This initial work found that the dominant cause of the Odour issue was engine aircraft start-up (70%+), aircraft holding (approximately 10%), and aircraft taxi-ing (up to 10%). As part of this work, the Authorities understand that GAL also undertook odour monitoring using equipment capable of measuring volatile organic compounds (“VOCs”) but that the deployment of such monitoring equipment was limited.
- 2.15 In the Authorities view, the Applicant has failed to develop this work to examine the extent to which any such odour impacts may change as a result of the Northern Runway Project.
- 2.16 Whilst the Authorities welcome the Applicant's commitment to comply with legislation and guidance on the handling of fuel and waste, the previous odour assessments cited above indicated that the majority of odour issues arise due to aircraft start-up rather than the handling of fuel and waste.
- 2.17 Furthermore, the Applicant's suggestion that the air quality monitoring work proposed through the draft DCO Section 106 Agreement [REP6-063] would mitigate odour impacts is not shared by the Authorities. As currently proposed, the work to be funded through the Draft DCO Section 106 Agreement relates to additional monitoring of particulate matter (ie. PM10 and PM2.5) and nitrogen dioxide. As these pollutants are unlikely to give rise to any fuel odours, it is unclear how the air quality monitoring to be secured through the draft DCO Section 106 Agreement – which would not fund equipment capable of measuring VOCs – would have any bearing on the odour impacts of the Northern Runway Project, whilst nonetheless being important as part of the wider air quality package.
- 2.18 The Authorities welcome the Applicant's commitment in the draft Air Quality Action Plan to continue reporting on odour related complaints; however, the reporting of complaints has been on-going for several decades and is not an adequate substitute for further technical assessment.
- 2.19 The Authorities note that the Applicant has indicated it was preparing a Proposed Odour Reporting Process document to clarify any remaining questions around odour. The Authorities understand that this document will be submitted at Deadline 7 and anticipate providing comments on the same at subsequent deadlines.

PART C:

List of Proposed Amendments to the dDCO submitted by the Applicant at Deadline 6 [\[REP6-005\]](#)

Note: The table below sets out the Legal Partnership Authorities' suggestions for amendments to the dDCO as at Deadline 7. It is intended to assist the ExA in its consideration of the amendments which it is proposing to publish on 14 August 2024. Further refinements to the list may be submitted at Deadline 8.

A large proportion of the amendments have been listed in previous documents submitted to the examination. The explanations for the amended text should be read in conjunction with previous, and in some cases more detailed explanations given.

The ExA is referred in particular to the following documents:

- The Local Impact Reports, and in particular Appendix M to the West Sussex Authorities' LIR: [\[REP1-069\]](#)
- The Authorities' comments on the various schedules of changes to the DCO submitted by the Applicant; most recently at Deadline 6 in [\[REP6-103\]](#)
- The Authorities' Responses to ExQ1 [\[REP3-135\]](#) and subsequent comments in relation to the same [\[REP4-062\]](#) and [\[REP6-104\]](#);
- The Authorities' SOCGs with the Applicant (particularly those with CBC [\[REP5-038\]](#), WSCC [\[REP5-056\]](#) and SCC [\[REP5-052\]](#)); and
- Post-Hearing Submissions concerning the dDCO, including:
 - ISH2 Post-Hearing Submission [\[REP1-212\]](#);
 - ISH8 Post-Hearing Submission on agenda item 8: Draft Development Consent Order [\[REP6-110\]](#).

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
1.	Art. 2(1) Interpretation	<p>Definition of “commencement”</p> <p>Alternative A</p> <p>“commence” means the carrying out of any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part, or carried out for the purposes, of the authorised development other than operations consisting of—</p> <p>(a) remedial work in respect of any contamination or adverse ground conditions;</p> <p>(b) environmental (including archaeological) surveys and investigation;</p> <p>(c) investigations for the purpose of assessing ground conditions;</p> <p>(d) site or soil surveys;</p> <p>(e) erection of fencing to site boundaries or marking out of site boundaries;</p> <p>(f) removal of hedgerows, trees and shrubs;</p> <p>(g) installation of amphibian and reptile fencing;</p> <p>(h) the diversion or laying of services;</p> <p>(i) ecological mitigation measures;</p> <p>(j) receipt and erection of construction plant and equipment;</p> <p>(k) erection of temporary buildings and structures;</p> <p>(l) site preparation and site clearance;</p> <p>(m) establishment of construction compounds;</p> <p>(n) establishment of temporary haul roads; and</p>	<p>There has been no proper explanation in the EM or in the control documents (including the CoCP) of the reasons for and the extent of each of the types of operation listed.</p> <p>Some types of operations (particularly those in paragraphs (k), (m), (n) and (o) have the potential to be significant and long lasting.</p> <p>The issue for the Authorities is the lack of control that they will have over what are likely to be significant aspects of the development.</p> <p>Two alternatives have been provided: A - removing those operations from the definition of commencement entirely and B - requiring the consent of the Authorities before any of these activities could begin.</p> <p>If A were to be recommended, then the significant construction sites could be listed as numbered works, as happened in the Sizewell DCO.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(o) the temporary display of site notices, advertisements or information, and “commencement” and “commenced” are to be construed accordingly;</p> <p>Alternative B</p> <p>Insert the following new requirement:</p> <p>Pre-commencement operations</p> <p>(XX).—(1) No operation listed in sub-paragraphs (k), (m) and (o) of the definition of “commence” may be carried out without the consent of the local planning authority, following consultation with the local highway authority.</p> <p>(2) No operation listed in sub-paragraph (n) of the definition of “commence” may be carried out without the consent of the local highway authority, following consultation with the local planning authority.</p> <p>(3) All operations listed in sub-paragraphs (a) to (n) of the definition of “commence” must be carried out in accordance with the code of construction practice.</p> <p>(4) Consent under this requirement must not be unreasonably withheld.</p>	

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
2.	Art. 2(9) Interpretation	(9) References in this Order to materially new or materially different environmental effects in comparison with those reported in the environmental statement must not be construed so as to preclude the undertaker from avoiding, removing or reducing an adverse environmental effect that was reported in the environmental statement.	See reasoning in West Sussex Authorities LIR Appendix M [REP1-068] This appears to be unprecedented. An explanation has been added to the EM. It appears to be a limitation on the “not materially different” test that, as the explanatory memorandum [REP6-007] says, has become commonplace in DCOs.
3.	Art. 2(10) Interpretation	(10) In this Order, the expression “includes” mayis to be construed without limitation, unless so construing would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.	See related comment above. Ensures compliance with Rochdale Envelope.
4.	Art. 9(4) Planning Permission	Alternative A Delete paragraph (4) (4) Any conditions of any planning permission granted prior to the date of this Order that are incompatible with the requirements of this Order or the authorised development shall cease to have effect from the date the authorised development is commenced and for the purpose of this fees article planning permissions deemed to be granted pursuant to the 2015 Regulations shall be deemed to be granted prior to the date of this Order.	Article 9(4) does not appear to be preceded in any made DCO. It is widely drafted and catches any incompatible planning conditions, but no such conditions are identified. The Authorities have concerns about some existing planning conditions in particular and wish to avoid any doubt and later argument about whether they be overridden. In alternative B, the Authorities are examining the planning history to finalise a list of conditions which they consider should be preserved for the avoidance of doubt, and will seek to agree them with the Applicant.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>Alternative B</p> <p>(4) Subject to paragraphs (5), (6) and (7), any conditions of any planning permission granted prior to the date of this Order that are incompatible with the requirements of this Order or the authorised development shall cease to have effect from the date the authorised development is commenced and for the purpose of this article planning permissions deemed to be granted pursuant to the 2015 Regulations shall be deemed to be granted prior to the date of this Order.</p> <p>(5) The undertaker must, before commencement of any development under this Order, use reasonable endeavours to identify any conditions that would cease to have effect under paragraph (4).</p> <p>(6) if the undertaker identifies any conditions under paragraph (5), the undertaker must notify the relevant planning authority and use reasonable endeavours to notify any person who might be adversely affected by the condition ceasing to have effect.</p> <p>(7) Paragraph (4) does not apply to the conditions listed in column (1) of the table in Schedule [X] (conditions excepted from article 9(4)) of the planning permissions listed in column (2) of that table.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO								
	Provision	Amended Text	Explanation						
		<p style="text-align: center; color: red;">New Schedule</p> <p style="text-align: center; color: red;">SCHEDULE [X] CONDITIONS EXCEPTED FROM ARTICLE 9(4)</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center; color: red;">(1) Condition</td> <td style="text-align: center; color: red;">(2) Planning Permission</td> </tr> <tr> <td style="text-align: center; color: red;">[TBC]</td> <td style="text-align: center; color: red;">[TBC]</td> </tr> <tr> <td></td> <td></td> </tr> </table>	(1) Condition	(2) Planning Permission	[TBC]	[TBC]			
(1) Condition	(2) Planning Permission								
[TBC]	[TBC]								
5.	Art. 9(5) Planning permission	<p>(5) Subject to paragraph (6), nothing in this Order restricts any person from seeking or implementing, or the relevant planning authority from granting, planning permission for development within the Order limits.</p> <p>(6) No person may implement deemed planning permission—</p> <p>(a) for any development within the area of Work No. 34(c) (replacement open space at Car Park B South and Car Park B North);</p> <p>(b) for any development within the area of Work No. 38 (Museum Field habitat enhancement area and flood compensation area);</p>	<p>There are some particular cases, namely where land is to be used for ecological mitigation, where it would be inappropriate and unnecessary for airport related permitted development rights to remain available. Proposed paragraphs (6)(a), (b) and (c) are intended to achieve that protection and (d) would provide further protection for Pentagon Field.</p> <p>More generally, the Authorities are concerned that leaving the Applicant with uncontrolled permitted development rights to provide car parking, in addition to the parking proposed in the DCO, increases unnecessarily the risk of the mode share commitments in the Surface Access Commitments being breached. This would be a particular concern were the Environmentally Managed Growth proposals not to be included in the DCO. Proposed</p>						

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(c) for any development within that part of the area of Work No. 41 (Pentagon Field ecological area) which comprises the planting described in paragraphs (a) and (b) of that work;</p> <p>(d) for any development comprising a car park or any development of more than [TBC] metres in height, within any part of the area of Work No. 41 (Pentagon Field ecological area) which does not comprise the planting described in paragraphs (a) and (b) of that Work;</p> <p>(e) for any development comprising a car park on any other operational land within the Order limits.</p> <p>(6) In this article—</p> <p>(a) “deemed planning permission” means permission which would be deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations;</p> <p>(b) “initiate” means when development of land shall be taken to be begun as per section 56 (time when development begun) of the 1990 Act, and “initiated” and “initiation” are defined accordingly; and</p>	<p>paragraph (6)(e) would remove PD rights for airport related parking within the Order limits.</p> <p>The Authorities are in discussions with the Applicant on the Surface Access Commitments and if a satisfactory conclusion can be reached then proposed paragraph (6)(e) could be dropped.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(c) “planning permission” means planning permission granted under the 1990 Act including deemed planning permission deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations.</p>	
6.	Art 10(3) Application of the 1991 Act	<p>(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order— (a) section 56 (directions as to timing)(c); (b) section 56A (power to give directions as to placing of apparatus)(d); (c) section 58 (restrictions following substantial road works)(e); (d) section 58A (restriction on works following substantial street works)(f); (e) section 73A (power to require undertaker to re-surface street)(g); (f) section 73B (power to specify timing etc. of re-surfacing)(h); (g) section 73C (materials, workmanship and standard of re-surfacing)(i); (h) section 77 (liability for cost of use of alternative route); (i) section 78A (contributions to costs of re-surfacing by undertaker)(j); and (j) Schedule 3A (restriction on works following substantial street works)(k).</p>	<p>See West Sussex Authorities LIR Appendix M [REP1-068]</p> <p>Some of these amendments may not be required by the Authorities if provision can be made in the DCO relating to permit schemes and lane rentals (see later on those subjects).</p> <p>In particular, it is important that section 56 of NRSWA must not be disapplied if the permit scheme article is not included.</p> <p>There have been discussions between the Applicant and the Authorities on the permit schemes, and the Authorities will consider any amendments put forward by the Applicant at D7 on permit schemes with a view to resolving them if the Applicant puts forward (as is expected) amendment relating to the permit schemes at D7.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
7.	Art. 11 Street works	<p>11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule [X] (streets subject to street works) as are within the Order limits and may—</p> <p>Together with:</p> <p>(4) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, the undertaker may, for the purposes of the authorised development, enter on so much of any other street within the Order limits, for the purposes of carrying out the works set out at paragraph (1) above.</p> <p>And a list of streets to be set out in a schedule</p> <p>Or if a list of streets is not included, the Councils propose the following:</p> <p>11.—(1) The undertaker may, for the purposes of the authorised development and subject to the consent of the street authority, enter on so much of any of the streets as are within the Order limits and may—</p>	<p>The Authorities note that in question DCO.2.8, the ExA asked the Applicant to provide a schedule of the streets affected by Art.11 in lieu of ‘any of the streets as are within the Order limits’.</p> <p>This is also a suggestion made by the Authorities, and they will await to comment on the Applicant’s drafting.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
8.	Art. 18 Traffic regulations	<p>New paragraph</p> <p><i>(7A) The instrument referred to in paragraph (7)(a) must be displayed by the applicant on its website and a copy must be sent to—</i></p> <p><i>(a) [email address] in the case of Surrey County Council;</i></p> <p><i>(b) [email address] in the case of West Sussex County Council.</i></p>	<p>This is to ensure that the traffic authorities are provided with copies of the “instrument” which gives effect to any traffic regulation measures made by the Applicant under art. 18 (1), (2) or (3), and that the public can see them too.</p>
9.	Art. 25 Felling or lopping of trees and removal of hedgerows	<p><i>(5) In this article “hedgerow” means a hedgerow within the meaning of has the same meaning as in the Hedgerow Regulations 1997 and which are listed in Schedule [X] and shown on the hedgerow plan.</i></p> <p>In article 2 (interpretation) a new definition:</p> <p><i>“the hedgerow plan” means the plan certified as such by the Secretary of State under article 52 (certification of documents);</i></p> <p>In article 52 (certification of documents, etc), a new entry referring to the hedgerow plan</p> <p>A new Schedule listing the hedgerows: this could be based on the drafting in, for example, Schedule 16 to the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024</p>	<p>See the Authorities’ response to EXQ DCO.2.1.2 at D7</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
10.	Art. 31 Time limit for exercise of authority to acquire land compulsorily	31.—(1) After the end of the period of 7 ^{ten} years beginning on the start date— (a) no notice to treat is to be served under Part 1 of the 1965 Act; and (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 34 (application of the 1981 Act and modification of the 2017 Regulations), in relation to any part of the Order land.	Although the Authorities remain of the view that 7 years plus the “start date” is a highly unusual length of time (and there are particular concerns about the potential sterilisation of the Bayhorne Farm proposals), they are prepared to agree to a reduction from 10 to 7 years.
11.	Art. 40 Special category land	New paragraph: (3) Provision must be made (whether in the relevant landscape and ecology management plan, the open space delivery plan submitted under paragraph (1) or otherwise) which ensures that the undertaker is responsible for the cost of and associated with the ongoing maintenance in perpetuity of the replacement land shown on the special category land plans with Plot number 1/013 (land west of Church Meadows) and comprising Work No. 40(c).	The circumstances that arise here are unusual. Under the current version of the DCO, the Applicant intends to acquire the special category land at Church Meadows using (s131(4)(b) of the Planning Act 2008). Doing so requires the provision of replacement land. The special category land to be acquired is in the area of RBBC. However, the replacement land is located in the area of MVDC. Under s131(4), the replacement land must have been or will be vested in the “prospective seller” (ie RBBC) and subject to the same rights, trusts and incidents as attach to the order land. RBBC are reluctant to accept ownership of open space land outside their area and continue to have the financial responsibility of maintaining it. Similarly MVDC do not want that responsibility.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			<p>In order to address this issue, the Authorities understand that the Applicant is intending to submit amendments to the DCO at D7. The replacement land will still be maintained as open space but the obligation to do so will be placed, in the first instance, on the Applicant, secured in the relevant LEMP.</p> <p>The Authorities will consider the changes (including any changes to the OLEMP) made at D7, but in the meantime put forward their own amendment which would ensure ongoing maintenance of the land by the Applicant is assured.</p>
12.	<p>Art. 49 Defence to proceedings in respect of statutory nuisance</p>	<p>49.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph (c), (d), (e), (fb), (g), (ga) and (h) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance— (a) relates to premises used by the undertaker for the purposes of or in connection with the construction, or maintenance or operation of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with— (i) a notice served under section 60 (control of noise on construction sites) of the Control of Pollution Act 1974; or</p>	<p>Dealing first with the general position, the Applicant has explained in its explanatory memorandum [REP6-007] that in its view the incorporation of article 49 imposes a high standard on the undertaker – notably higher than section 158 of the Planning Act 2008 (Nuisance: statutory authority) - by referring to the CoPA processes and specifying that the nuisance must not have been reasonably avoidable.</p> <p>The Authorities’ understanding of the Applicant’s position is that including more of the paragraphs of section 79(1) of EPA 1990 within the scope of article 49 somehow increases the protection afforded to those potentially affected by statutory nuisances arising from the development. The Authorities consider that this is a misunderstanding of the position.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(ii) a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(b); or (b) is a consequence of the construction, maintenance or operation of the authorised development and that it cannot reasonably be avoided.</p>	<p>Article 49 is not included to provide additional protection, it is included because sections 79 to 82 of EPA 1990 (and all the controls they contain) are not being disapplied under the DCO, they would therefore take effect despite section 158 of the 2008 Act, and the Applicant would therefore be potentially liable to prosecution under section 82 of EPA. Article 49 provides the Applicant with additional defences against prosecution. In most cases, the defence of “best practical means” is available (s.82(9)) - but no others. Article 49 replaces the best practical means defence with a weaker “cannot reasonably be avoided” defence.</p> <p>Therefore the starting point, so far as the Authorities is concerned, is that the number of paragraphs of s.79(1) to be included with the scope of article 49 should be limited, and the Applicant should justify each one individually.</p> <p>Turning to some of the individual paragraphs:</p> <p>The Applicant has sought to explain (in the response to ExA Q1 DCO.1.37 [REP3-089]) the inclusion of the individual paragraphs of section 79(1) and that that the code of construction practice will provide sufficient environmental controls.</p> <p>The COCP does not, of course, apply to the operation of the airport, and it is very unusual for DCOs to refer to “operation” in this article. Notably it is not included in either Manston or Luton.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			<p>The applicant seeks to justify the inclusion of subsection 79(1)(c) (fumes or gases emitted from premises) by saying that by subsection 79(4) it only applies to emissions from private dwellings. In that case, there is no need to disapply it.</p> <p>It is also difficult to see where circumstances under subsection 79(1)(d) (dust, steam, smell or other effluvia arising on industrial, trade or business premises) would arise, and even if they did, and action was taken, the defence of best practical means would be available.</p> <p>The position is similar in relation to (fb) (artificial light emitted from premises), which by virtue of s.79(5B) does not apply to artificial light emitted from an airport. Again, no need to double disapply something which already doesn't apply, if the Applicant is concerned about liability under s.79 for airport premises.</p> <p>The applicant says that (ga) (noise emitted from a vehicle, machinery or equipment in a street) does not apply to noise made by traffic. It is unclear how that justifies the disapplication of the provision.</p> <p>There is no other specific justification for the disapplication of the other paragraphs in the explanatory memorandum of SoCG, only reliance on a very</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			<p>small number of DCO precedents, which are not representative of airport development. The only made airport DCO precedent (Manston) disapplies paragraph (g) and does not extend to the operation of the authorised development. In the draft Luton DCO, only paragraphs (d), (e), (g) and (ga) would be excluded in the equivalent provision, and it also does not apply to operation of the authorised development.</p>
13.	Schedule 1 Authorised Development	Work No. 18	<p>No specific amendments are shown to the work itself but as the Authorities mentioned in their post hearing submissions on agenda item 8 of ISH8 [REP6-110], there is greater detail required about the sequencing of these works and in particular about (a) the inclusion of noise mitigation in the period between removal of the existing bund and the construction of the replacement bund and (b) uncertainty about the acoustic effectiveness of the bund.</p> <p>Further detail is in the Authorities' ExQ1 response reference NV1 and NV2 [REP4-068] and in [REP3-135] DCO 1.38 Works 18. The issue is not just the gap in acoustic provision when the existing bund is removed but also uncertainty about the acoustic effectiveness of the bund.</p> <p>An amendment to requirement 32 (western noise mitigation bund) is suggested below.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
14.		<p>Work No. 22</p> <p>Works associated with the North Terminal building including works to—</p> <p>(a) extend the International Departure Lounge on levels 20, 30 and 40 to the north;</p> <p>(b) extend the International Departure Lounge on levels 10, 20 and 30 to the south;</p> <p>(c) extend the baggage hall and baggage reclaim;</p> <p>(d) construct the North Terminal autonomous vehicle station;</p> <p>(e) construct the autonomous vehicle maintenance building;</p> <p>(f) reconfigure internal facilities;</p> <p>(g) construct a multi-storey car park with provision for no more than 890 parking spaces for cars;</p> <p>(h) demolish the CIP building and circulation building;</p> <p>(i) remediate the coaching gates.</p>	<p>Generally, the Authorities consider that more detail is required in relation to the car park, hotel and office accommodation elements of the development, and including limitations on parking space numbers, guest bedroom spaces and office floor areas is a reasonable minimum expectation.</p> <p>In relation to hotels, the Authorities have suggested a new requirement (see later in this document) which would impose controls on the type of parking that could be provided.</p>
15.		<p>Work No. 28</p> <p>Works associated with the Car Park H Site including works to—</p> <p>(a) construct a hotel;</p> <p>(b) construct an office with provision for up to 5,000 square metres of office floor space;</p> <p>(c) construct a multi-storey car park with provision for no more than 3,700 parking spaces for cars;</p> <p>(d) demolish Car Park H;</p> <p>(e) external vehicle and pedestrian accesses.</p>	<p>See general comment above</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
16.		Work No 29. Works to convert Destinations Place office into a hotel with provision for up to 250 bedrooms and refurbishment of the building exterior.	See general comment above
17.		Work No. 30 Works to construct Car Park Y including— (a) earthworks and works to construct an attenuation storage facility with a capacity of approximately 32,000m ³ ; (b) construction of a multi-storey car park with provision for no more than 3,035 parking spaces for cars.	See general comment above
18.		Work No. 31 Works associated with Car Park X including— (a) earthworks and landscaping; (b) construction of a flood compensation area with a capacity of approximately 55,000m ³ ; (c) construction of an outfall structure; (d) access improvements; (e) deck parking provision with provision for no more than 3,280 parking spaces for cars, including a re-provision of Purple Parking and surface parking amendments. (f) surface parking amendments.	See general comment above
19.		Work No. 32	See general comment above

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure with provision for no more than 1,680 parking spaces for cars if Work No. 44 (wastewater treatment works) is not implemented or 2,842 parking spaces for cars if Work No. 44 is implemented.	The numbers being provided on this site depend on whether Work 44 (project change 4 water treatment works) is delivered. The parameter plans for the site are so generous that the additional displaced surface parking from Work 44 can be accommodated.
20.		Work No. 33 Works associated with the existing Purple Parking car park including— (a) removal of existing decked car parking structure; (b) partial removal of existing surface car parking; (c) erection of a fenceline; (d) re-configuration of remaining surface level car parking with provision for no more than 700 parking spaces for cars.	See general comment above
21.		Work No. 38 Works to construct the habitat enhancement area and flood compensation area at Museum Field including works to— (a) construct a flood compensation area with a capacity of approximately 57,600m ³ ;52 (b) extend Gatwick greenspace footpath; (c) construct a maintenance access road; (d) undertake earthworks, landscaping and a bund (up to 6 metres in height above datum) around the southern and eastern perimeter; (e) construct footbridge;	

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
		(f) construct two farm access bridges.	
22.		<p>Work No. 41 Works associated with land to create an ecological area at Pentagon Field including works to—</p> <p>(a) establish a temporary spoil receptor site;</p> <p>(b) permanently raise the ground level across the central part of Pentagon Field to create a raised spoil platform to a height of up to 4 metres above datum;</p> <p>(c) reinstate land by— (i) reprofiling and reinstatement of grassland; (ii) planting of a native tree belt approximately 15 metres wide and [TBC] long along the eastern boundary of Pentagon Field adjacent to Balcombe Road; (iii) [other planting elements to be confirmed – it is currently unclear where and what the planting works listed in Works 41 comprise.]</p> <p>(a) deliver approximately 1ha of planting; (b) plant a tree belt approximately 15 metres length; (c) create spoil bunds.</p>	<p>In the case of Work No. 41, the Authorities consider that far more detail about the scale and location of the spoil bunds needs to be provided in the description of works and in the control documents, and that the bunds (which should be described as land raising) should be referred to in the parameter plans (see amendment to Schedule 13 below).</p> <p>CBC will seek to engage in discussions with the Applicant over the detailed wording including those words in square brackets.</p>
23.		Work No. 43	See general comment above

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>Works to construct water treatment works including—</p> <ul style="list-style-type: none"> (a) 6 reed beds, surrounded by embankments and suitable boundary treatment; (b) associated plant, equipment and machinery; (c) maintenance access; (d) a cabin, secure storage unit and the reprovision of the car parking for Gatwick Greenspace Partnership parking. 	
24.		<p>Work No. 44 Works to—</p> <ul style="list-style-type: none"> (a) remove existing surface car parking and associated structures; (b) construct wastewater treatment works; (c) construct new rising mains and pumping station next to Gatwick Airport Police Station; (d) provide a new pipe outfall to River Mole; (e) provide associated revisions to wastewater infrastructure within the project boundary. 	<p>The works are described in the Project Change 4 documents, and include a new pumping stations. Elsewhere in Schedule 1, pumping stations have been listed, for example Work No 4(c)(ii). This is an integral part of the Work and should be listed, along with the other suggested details.</p> <p>As with other works, there is insufficient detail in the Works and parameter plans to show the lateral and vertical limits of the various elements of the works.</p>
25.		<p>Work No. [X]</p> <p>Work to construct a pumping station east of the railway [X] if Work No. 44 is not constructed</p>	<p>As mentioned above, pumping stations are mentioned elsewhere in Schedule 1 (another example of a stand alone pumping station work is Work No. 19).</p> <p>This pumping station and its associated pipe run is shown on plan [REP6-016] drawing 5.2.1e (Environmental Statement Project Description Figures Version 4 (Tracked)) but it has been deleted from the latest version of the plan</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			<p>[REP6-015]. The Authorities understand that the pumping station is still required in case Work No. 44 is not delivered.</p>
26.		<p>Additional Works The Authorities consider that some of the larger construction compounds should be added to the list of numbered works, rather than be listed with the ancillary works, because of their size and the length of time they will be required.</p> <p>If the ExA indicates sympathy with this position, then the Authorities consider that it would be for the Applicant to draft the work description.</p> <p><u>Schedule 1</u> to the Sizewell C (Nuclear Generating Station) Order 2022 included a temporary accommodation campus as Work No. 3. This could be used as a template.</p>	
27.	Req 2A Phasing scheme	<p>Phasing scheme and indicative timings of submissions of documents 2A.—(1) The authorised development must not commence until a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways.</p>	<p>The amendments proposed here are intended to ensure that the Authorities are properly able to prepare and allocate resources in advance of submissions being made, particularly at periods when applications will be coming forward intensively.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(2A) The date of commencement of the authorised development must be no sooner than the expiry of the period of 6 months beginning with the date on which the phasing scheme is submitted under paragraph (1).</p> <p>(2) The undertaker must review and make any necessary updates to the phasing scheme and submit that updated phasing scheme to the host authorities and National Highways:</p> <p>(a) no later than one year after five years from the date of commencement of the authorised development;</p> <p>(b) at any time if the undertaker proposes a significant change to the contents or timing of the phases of construction in a previously submitted phasing scheme; and</p> <p>(c) at least once in every year no later than every five years after the date of the most recent submission of a phasing scheme under this subparagraph (2),</p> <p>provided that the undertaker is not required to submit any further phasing scheme to a host authority after the completion of the construction of the authorised development, or after such earlier date as may be agreed by the host authority in question. fifteenth anniversary of the commencement of the authorised development.</p>	<p>The amendments should not, and are not intended to result in any significant delay to the delivery of the project.</p> <p>The Authorities understand that the Applicant will be submitting amendments to this provision at Deadline 7, which the Authorities will consider.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(2A) A submission of an updated phasing scheme made to a host authority under sub-paragraph (2)(b) must be made to the host authority at least 3 months before the significant change in question is implemented unless otherwise agreed by the host authority in question.</p> <p>(2B) Where any requirement in this Schedule requires the submission to any of the host authorities of details or a document relating to the authorised development, the undertaker must provide to the host authority in question indicative timings for the submission of the relevant details or document in question at least 3 months before their submission unless otherwise agreed by the host authority in question.</p> <p>(3) Where any requirement in this Schedule requires the submission to any of the host authorities or National Highways of details or a document relating to a part of the authorised development, the undertaker must:</p> <p>(a) state which phase that part falls within by reference to the most recent phasing scheme submitted under sub-paragraph (1) or (2); and</p> <p>(b) where the part does not constitute the whole phase:</p> <p>(i) identify which works in Schedule 1 (authorised development) constitute the part, including by reference to the works plans (where applicable); and</p> <p>(ii) provide indicative timings for the submission of the relevant details or document for the remainder of works in that phase.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(4) In this requirement “phasing scheme” means a written document which—</p> <p>(a) identifies, by reference to Schedule 1 (authorised development), the works that are anticipated to be constructed within successive temporal phases of construction;</p> <p>(b) includes a layout plan showing the location of the works anticipated to be constructed in each phase; and</p> <p>(c) includes an indicative construction programme for any phases to be delivered in the five years following the date of submission of the phasing scheme and indicative timings for the delivery of later phases;</p>	
28.	Req. 3 Time limit and notifications	<p>(2) The undertaker must notify the host authorities—</p> <p>(a) within the period of 7 days beginning withafter the date on which the authorised development begins;</p> <p>(b) at least 4228 days prior to the anticipated date of commencement of the authorised development, provided that commencement may still lawfully occur if notice is not served in accordance with this subparagraph;</p> <p>(c) within the period of 7 days beginning withafter the actual date of commencement of the authorised development;</p> <p>(d) at least 4228 days prior to the anticipated date of commencement of dual runway operations; and</p> <p>(e) within the period of 7 days beginning withafter the actual commencement of dual runway operations.</p>	<p>These amendments are intended to correct the position following submission of amendments at D6 in which references to “business” days were removed.</p> <p>The Authorities understand that the Applicant will be submitting amendments to this provision at Deadline 7, which the Authorities will consider.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
29.	Req. 4 Detailed design	<p>4.—(1) No part of the authorised development (except for the highway works and listed works) is to commence until CBC has been consulted on the design of that part, with this consultation to take place in the same manner as if taking place pursuant to paragraph F.2. of Part 8 of Schedule 2 to the 2015 Regulations (subject to sub-paragraph (6)).</p> <p>(3) No part of any listed works is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(7) In this paragraph, references to CBC are to be read as references to MVDC in the case of Work No. 40 (works associated with land to the north east of Longbridge Roundabout) and MVDC is not to be a consultee where as a consequence of the foregoing it would be responsible for approving details or agreeing any matter instead of CBC.</p>	<p>These amendments would mean MVDC would be discharging authority for Work No 40.</p> <p>The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.</p>
30.	Req. 4 Detailed design	<p>(7) No part of the authorised development is to commence until a statement of compliance demonstrating how the plans and details of the relevant building, structure or works for that part are in compliance with, where applicable—</p>	<p>A compliance plan would assist the Authorities in understanding how proposals fit in with the control documents, which should help with resourcing and ensuring time limits are met.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
		<p>(i) the design principles in appendix 1 of the design and access statement; and</p> <p>(ii) the limits of works; and</p> <p>(iii) the parameter plans.</p>	The Authorities understand that the Applicant will be submitting amendments to this provision at D7, which the Authorities will consider.
31.	Req. 8	<p>8.—(1) No part of the authorised development is to commence until a landscape and ecology management plan for that part has been submitted to and approved in writing by CBC (in 60 consultation with RBBC, MVDC or TDC to the extent that they are the relevant planning authority for any land to which the submitted plan relates)</p> <p>(5) In this paragraph, references to CBC are to be read as references to MVDC in the case of Work No. 40 (works associated with land to the north east of Longbridge Roundabout) and MVDC is not to be a consultee where as a consequence of the foregoing it would be responsible for approving a plan instead of CBC.</p>	<p>See comments above on requirement 4.</p> <p>The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.</p>
32.	Req. 9 Contaminated land and groundwater	<p>Placeholder: no amendments suggested at this stage.</p> <p>9.—(1) In respect of any part of the authorised development where historical data cannot establish that the risk of contaminated land is low, the undertaker must conduct ground investigations prior to that part of the authorised development being commenced. The scope of</p>	<p>The Authorities are considering whether sub-paragraph (1) and in particular the highlighted words below can be strengthened and/or made clearer so as to ensure that ground investigations take place in appropriate circumstances and in line with the Authorities’ usual expectations.</p> <p>The Authorities will seek to agree wording with the Applicant.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		these investigations must be agreed with the relevant planning authority (in consultation with the Environment Agency on matters related to its functions).	
33.	Req. 14 Archaeological remains	Placeholder: no amendments suggested at this stage.	The Authorities will carry out a check on the revised written scheme of investigation which is expected at D7. If the Authorities consider any amendments to R14 are required they will submit them at D8
34.	Req. 15 Air noise envelope	<p>(2) The undertaker shall be required to submit annual monitoring and forecasting reports and, if necessary, noise compliance plans to the independent air noise reviewer in accordance with the requirements contained at section 7 of the noise envelope document and at the same time shall send copies of those documents to the host authorities so they may make comments to the independent air noise reviewer. The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the Applicant must afford such assistance as the host authorities may require reasonably require.</p> <p>(3) The undertaker must comply with each noise compliance plan which is approved following scrutiny and verification by the independent air noise reviewer or the Secretary of State (as is relevant in the circumstances) in consultation with the host authorities, subject always</p>	<p>Limited changes to the process which would ensure that host authorities had sight of the documentation and had a consultee role. There is also a duty on the Applicant to co-operate with the host authority</p> <p>Note: the Authorities are considering whether further changes are required to this requirement.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>to compliance with all other laws and international obligations which are applicable to the noise compliance plan and the measures therein contained.</p> <p>(5)</p> <p>until an annual monitoring and forecasting report has been approved (following consultation with the host authorities) by the independent air noise reviewer or by the Secretary of State (as is relevant in the circumstances) which confirms compliance with the noise envelope limit identified to have been exceeded or forecast to be exceeded (as is relevant in the circumstances), including where relevant when taking account of the measures proposed within a noise compliance plan to address any such exceedance.</p>	
35.	Req. 16 Air noise envelope reviews	<p>(1) The undertaker shall be required to submit noise envelope review documents to the independent air noise reviewer for approval in accordance with the requirements contained at section 8 of the noise envelope document and at the same time must send copies of those documents to the host authorities so they may make comments to the independent air noise reviewer. The independent air noise reviewer must have regard to any comments that it receives from the host</p>	<p>Limited changes to the process which would ensure that host authorities had sight of the documentation and had a consultee role, and shortening of some of the time limits, which appear generous for simple publication of a document.</p> <p>There is also a duty on the Applicant to co-operate with the host authority.</p> <p>Note: the Authorities are considering whether further changes are required to this requirement.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(2) The undertaker must submit a draft of any noise envelope review document to the independent air noise reviewer not less than 42 days before the submission of that noise envelope review document for approval pursuant to sub-paragraph (1) of this requirement and at the same time must send copies of those draft documents to the host authorities so they may make comments to the independent air noise reviewer. The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(6) The undertaker must publish on a website (including a page on a website) hosted by the undertaker for that purpose each approved noise envelope review document or extraordinary noise envelope review document within not more than 1445 days following the date on which those are approved.</p>	
36.	Req. 17	7.— (1) Within not more than six months following the end of the period of 12 months beginning with the commencement of dual runway	Limited changes to the process which would ensure that host authorities had sight of the documentation and had a consultee role, and shortening of some

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
	Verification of air noise monitoring equipment	<p>operations and at 5 yearly intervals thereafter the undertaker must submit to the independent air noise reviewer a noise model verification report and at the same time must send a copy of that report to the host authorities so they may make comments to the independent air noise reviewer The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(2) The undertaker must publish on a website (including a page on a website) hosted by the undertaker for that purpose each noise model verification report submitted to the independent air noise reviewer within not more than 1445 days after the date of its submission.</p>	<p>of the time limits, which appear generous for simple publication of a document.</p> <p>Note: the Authorities are considering whether further changes are required to this requirement.</p>
37.	Req. 18 Noise insulation scheme	Placeholder: no amendments suggested at this stage.	<p>Drafting may follow in due course in relation to the time limits in this requirement and to include more detail about what “appropriate steps” are to notify people under paragraphs (2), (3) and (6) and to measure levels of ground noise under paragraph (4).</p> <p>At the very least there should be a definition of “appropriate steps” in the requirement – it should be for the Applicant to come forward with the definition.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
38.	Req. 19 Airport operations	<p>(1) From the date of the commencement of dual runway operations, the airport may not be used for more than 386,000 commercial air transport 389,000 aircraft movements per annum.</p> <p>(5) In this requirement—</p> <p>“aircraft movements” means all aircraft movements with the exception of diverted or emergency flights”;</p> <p>“Code C aircraft” means aircraft with dimensions meeting the maximum specifications of code letter C in the Aerodrome Reference Code table in Annex 14, Volume I to the Convention on International Civil Aviation, as at the date of this Order.</p>	<p>This is to ensure that the cap includes certain non-commercial flights which would not otherwise fall within the definition of “commercial air transport” in requirement 1. It includes, for example, private flights.</p> <p>At full capacity the airport is forecast to handle 386,000 commercial movements, and 389,000 total movements.</p> <p>“aircraft movements” is an industry term which would include such “non-commercial” movements.</p> <p>The ExA is referred to : UK airport data notes and FAQs Civil Aviation Authority (caa.co.uk)</p> <p>The following industry terms are described:</p> <p>Aircraft Movement: Any aircraft take-off or landing at an airport. These could be either commercial or non-commercial flights. For airport traffic purposes one arrival and one departure are counted as two movements.</p> <p>Air Transport Movements: Landings or take-offs of aircraft engaged on the transport of passengers, freight or mail on commercial terms. All scheduled movements, including those operated empty, loaded charter and air taxi movements are included.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			<p>Note: The Authorities are currently under discussions with the Applicant about flight departure routes. Depending on the outcome of those discussions, the Authorities may include further suggested amendments at D8.</p>
39.	Req. 20 Surface access	20. From the date on which the authorised development begins the operation of the airport must be carried out in accordance with the surface access commitments unless otherwise agreed in writing with CBC and National Highways in consultation with West Sussex County Council and Surrey County Council.	The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.
40.	Req. 23 Flood compensation delivery plan	Placeholder: no amendments suggested at this stage.	The Authorities are considering the arrangements for who should be the discharging authority in this requirement. They should be able to provide an update at D8 and will discuss with the Applicant in the meantime.
41.	Req. 30 Site waste management plan	Placeholder: no amendments suggested at this stage.	The Authorities are considering whether the identity of the discharging authority for this requirement should be amended.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
42.	Req. 32 Western noise mitigation bund	<p>Western noise mitigation bund</p> <p>32.—(1) The commencement of dual runway operations must not take place until Work No. 18(b) (replacement noise bund and wall) has been completed.</p> <p>(2) Once completed, Work No. 18(b) must not be removed unless otherwise agreed in writing by CBC.</p> <p>(3) No part of Work No. 18 is to commence unless a scheme has been agreed in writing between the undertaker and CBC for the implementation of noise mitigation of no less efficacy than the existing western noise bund for the period between the removal of the existing western noise bund and the completion of construction of the replacement noise bund and wall.</p> <p>(4) The undertaker must implement the scheme agreed under paragraph (3).</p> <p>(5) The replacement noise bund and wall must be of no less efficacy than the existing western noise bund.</p>	<p>See comments on Work No. 18 above.</p> <p>The Authorities wish to ensure that there will be sufficient protection in the transition phase and that the replacement bund and wall provides at least the same level of mitigation as the existing bund.</p> <p>The Authorities understand that the Applicants will be submitting proposals on the first of those points at D7, which the Authorities will consider.</p>
43.	Sch 11 Part 1 Approval fees	Paragraph 3 (fees) potentially to be removed	<p>The Authorities are preparing proposals for replacement fee recovery arrangements and details of this are contained in the Legal Partnership Authorities' Deadline 7 submission "Response to EXQ2" (DCO.2.23).</p> <p>In the meantime, the most likely position is that the Authorities will ask that paragraph 3 of Schedule 11 be removed.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
			Discussions are ongoing with the Applicant about a fee recovery arrangement outside the DCO.
44.	Sch 11 Time Limits	<p>Applications made under requirement</p> <p>1.—(1) Where an application has been made to a discharging authority for any agreement, endorsement or approval required by a requirement included in this Order (except where the discharging authority is the independent air noise reviewer, in which case Part 2 of this Schedule has effect in place of this Part), the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.</p> <p>(2) For the purposes of sub-paragraph (1), the decision period is—</p> <p>(a) in the case of requirements in respect of which the discharging authority has a duty under Schedule 2 (requirements) of this Order to consult with any other body—</p> <p>(i) where no further information is requested under paragraph 2, 8 weeks (or in the case of major works, 16 weeks) from the day immediately following that on which the application is received by the discharging authority;</p>	<p>See previous comments on the length of time that the Authorities will have to deal with what could possibly be a large number of requests and applications coming in an intensive period. Whilst the Authorities welcome the changes that have been made by the Applicant as regards requirement 2A (phasing) and the proposals for a compliance statement, they still consider that a longer time period is justifiable in the case of a limited number of works.</p> <p>In addition, the authorities consider that they should have more time to consider whether further information is necessary and seek a modest extension of one week to the time limit for making such a request.</p> <p>In the list of “major works” the Authorities have included some of the more substantive works, including all those works listed in paragraph 4.3 of REP6-111 as requiring Design Review, These would be ‘major in scale’ under the Development Management Definition used for planning applications and would normally be subject to a minimum 13 week determination period.</p> <p>There is a placeholder at sub-paragraph (2A)(xii) for others to be added potentially.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(ii) where further information is requested under paragraph 2, 8 weeks (or in the case of major works, 16 weeks) from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or</p> <p>(iii) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in subparagraph (i) or (ii) (such agreement not to be unreasonably withheld); and</p> <p>(b) in the case of requirements in respect of which the discharging authority has no duty under Schedule 2 of this Order to consult with any other body—</p> <p>(i) where no further information is requested under paragraph 2, 6 weeks (or in the case of major works, 12 weeks) from the day immediately following that on which the application is received by the discharging authority;</p> <p>(ii) where further information is requested under paragraph 2, 6 weeks (or in the case of major works, 12 weeks) from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or</p> <p>(iii) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in subparagraph (i) or (ii) (such agreement not to be unreasonably withheld).</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(2A) In sub-paragraph (2), “major works” means—</p> <ul style="list-style-type: none"> (i) Work No. 9 (Works to construct the replacement Central Area Recycling Enclosure (CARE) facility); (ii) Work No. 16 (new hangar); (iii) Work No. 22 (Works associated with the North Terminal building); (iv) Work No. 23 (Works associated with the South Terminal building); (v) Work No. 24 (Works to upgrade the North Terminal forecourt including access roads); (vi) Work No. 25 (Works to upgrade the South Terminal forecourt including access roads); Work No. 26 (Works to construct a hotel north of multi-storey car park 3); (vii) Work No. 27 (Works to construct a hotel on the car rental site); (viii) Work No. 28 (Works associated with the Car Park H Site); (ix) Work No. 29 (Works to convert the existing Destinations Place office into a hotel); (x) Work No. 30 (Works to construct Car Park Y); (xi) Work No. 31 (Works associated with Car Park X) (xii) [Others TBC] <p>(3)[no changes proposed]</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO						
	Provision	Amended Text	Explanation				
		<p>Further information</p> <p>2.—(1) In relation to any application to which this Part of this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) If the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 14 days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(3) [no further changes proposed]</p>					
45.	Sch 12 Non-highway works for which detailed design approval is required	<p style="text-align: center;">SCHEDULE 12</p> <p style="text-align: center;">Non-Highway Works for which Detailed Design Approval is Required</p> <table border="1" data-bbox="542 1177 1443 1412"> <thead> <tr> <th data-bbox="542 1177 739 1218"><i>(1) Work No.</i></th> <th data-bbox="739 1177 1443 1218"><i>(2) Work description</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="542 1218 739 1412">1 (part)</td> <td data-bbox="739 1218 1443 1412">Northern Runway (only in respect of those parts that involve surface or foul water drainage for detailed approval under requirement 10(3) (surface and foul water drainage only))</td> </tr> </tbody> </table>	<i>(1) Work No.</i>	<i>(2) Work description</i>	1 (part)	Northern Runway (only in respect of those parts that involve surface or foul water drainage for detailed approval under requirement 10(3) (surface and foul water drainage only))	See explanations given in Table 1 in Appendix A (Design Note) to the Authorities' response to the ISH8 Action Points [REP6-111]
<i>(1) Work No.</i>	<i>(2) Work description</i>						
1 (part)	Northern Runway (only in respect of those parts that involve surface or foul water drainage for detailed approval under requirement 10(3) (surface and foul water drainage only))						

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO																																		
	Provision	Amended Text	Explanation																																
		<table border="1"> <tr> <td data-bbox="542 451 736 488">4*</td> <td data-bbox="736 451 1440 488">Works relating to the runways and taxiways</td> </tr> <tr> <td data-bbox="542 488 736 526">6</td> <td data-bbox="736 488 1440 526">Works to construct a new pier (Pier 7)</td> </tr> <tr> <td data-bbox="542 526 736 563">7*</td> <td data-bbox="736 526 1440 563">Works to construct the Oscar Area</td> </tr> <tr> <td data-bbox="542 563 736 600">9</td> <td data-bbox="736 563 1440 600">Works to construct the replacement Central Area Recycling Enclosure (CARE) facility</td> </tr> <tr> <td data-bbox="542 600 736 638">10</td> <td data-bbox="736 600 1440 638">Works to construct the replacement motor transport facilities</td> </tr> <tr> <td data-bbox="542 638 736 675">11</td> <td data-bbox="736 638 1440 675">Works to construct the replacement grounds maintenance facilities</td> </tr> <tr> <td data-bbox="542 675 736 712">12</td> <td data-bbox="736 675 1440 712">Works to construct the replacement airfield surface transport facilities</td> </tr> <tr> <td data-bbox="542 712 736 750">14</td> <td data-bbox="736 712 1440 750">Works to remove and construct the replacement fire training ground</td> </tr> <tr> <td data-bbox="542 750 736 787">15</td> <td data-bbox="736 750 1440 787">Works to construct the satellite airport fire service facility</td> </tr> <tr> <td data-bbox="542 787 736 824">16</td> <td data-bbox="736 787 1440 824">Works to construct a new aircraft hangar.</td> </tr> <tr> <td data-bbox="542 824 736 862">17*</td> <td data-bbox="736 824 1440 862">Works to relocate the Hangar 7 support structures</td> </tr> <tr> <td data-bbox="542 862 736 899">18</td> <td data-bbox="736 862 1440 899">Works to remove and replace the western noise mitigation bund</td> </tr> <tr> <td data-bbox="542 899 736 937">19</td> <td data-bbox="736 899 1440 937">Works to construct pumping station 2a.</td> </tr> <tr> <td data-bbox="542 937 736 974">20</td> <td data-bbox="736 937 1440 974">Works to realign Larkins Road.</td> </tr> <tr> <td data-bbox="542 974 736 1011">22(a)–(e)(d) and (g)</td> <td data-bbox="736 974 1440 1011"> Extending the North Terminal International Departure Lounge </td> </tr> <tr> <td data-bbox="542 1011 736 1049"></td> <td data-bbox="736 1011 1440 1049">Works associated with the North Terminal building</td> </tr> </table>	4*	Works relating to the runways and taxiways	6	Works to construct a new pier (Pier 7)	7*	Works to construct the Oscar Area	9	Works to construct the replacement Central Area Recycling Enclosure (CARE) facility	10	Works to construct the replacement motor transport facilities	11	Works to construct the replacement grounds maintenance facilities	12	Works to construct the replacement airfield surface transport facilities	14	Works to remove and construct the replacement fire training ground	15	Works to construct the satellite airport fire service facility	16	Works to construct a new aircraft hangar.	17*	Works to relocate the Hangar 7 support structures	18	Works to remove and replace the western noise mitigation bund	19	Works to construct pumping station 2a.	20	Works to realign Larkins Road.	22(a)–(e)(d) and (g)	Extending the North Terminal International Departure Lounge		Works associated with the North Terminal building	
4*	Works relating to the runways and taxiways																																		
6	Works to construct a new pier (Pier 7)																																		
7*	Works to construct the Oscar Area																																		
9	Works to construct the replacement Central Area Recycling Enclosure (CARE) facility																																		
10	Works to construct the replacement motor transport facilities																																		
11	Works to construct the replacement grounds maintenance facilities																																		
12	Works to construct the replacement airfield surface transport facilities																																		
14	Works to remove and construct the replacement fire training ground																																		
15	Works to construct the satellite airport fire service facility																																		
16	Works to construct a new aircraft hangar.																																		
17*	Works to relocate the Hangar 7 support structures																																		
18	Works to remove and replace the western noise mitigation bund																																		
19	Works to construct pumping station 2a.																																		
20	Works to realign Larkins Road.																																		
22(a)–(e)(d) and (g)	Extending the North Terminal International Departure Lounge																																		
	Works associated with the North Terminal building																																		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO																										
	Provision	Amended Text	Explanation																								
		<table border="1"> <tr> <td data-bbox="542 443 736 566">23(a) and (c)</td> <td data-bbox="736 443 1438 566">Extending the South Terminal International Departure Lounge Works associated with the South Terminal building</td> </tr> <tr> <td data-bbox="542 566 736 646">24</td> <td data-bbox="736 566 1438 646">Works to upgrade the North Terminal forecourt including access roads.</td> </tr> <tr> <td data-bbox="542 646 736 725">25</td> <td data-bbox="736 646 1438 725">Works to upgrade the South Terminal forecourt including access roads.</td> </tr> <tr> <td data-bbox="542 725 736 805">26</td> <td data-bbox="736 725 1438 805">Hotel north of multi-storey car park 3</td> </tr> <tr> <td data-bbox="542 805 736 846">27</td> <td data-bbox="736 805 1438 846">Hotel on the car rental site</td> </tr> <tr> <td data-bbox="542 846 736 925">28(a), (b), (c) and (e)</td> <td data-bbox="736 846 1438 925">Works associated with Hotel on the Car Park H site</td> </tr> <tr> <td data-bbox="542 925 736 1005">29</td> <td data-bbox="736 925 1438 1005">Works to convert the existing Destinations Place office into a hotel.</td> </tr> <tr> <td data-bbox="542 1005 736 1045">30</td> <td data-bbox="736 1005 1438 1045">Works to construct Car Park Y</td> </tr> <tr> <td data-bbox="542 1045 736 1086">31</td> <td data-bbox="736 1045 1438 1086">Works associated with Car Park X</td> </tr> <tr> <td data-bbox="542 1086 736 1198">32</td> <td data-bbox="736 1086 1438 1198">Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure.</td> </tr> <tr> <td data-bbox="542 1198 736 1278">33</td> <td data-bbox="736 1198 1438 1278">Works associated with the existing Purple Parking car park</td> </tr> <tr> <td data-bbox="542 1278 736 1357">34</td> <td data-bbox="736 1278 1438 1357">Works to remove Capr Park B South and Car Park North and deliver replacement open space</td> </tr> </table>	23(a) and (c)	Extending the South Terminal International Departure Lounge Works associated with the South Terminal building	24	Works to upgrade the North Terminal forecourt including access roads.	25	Works to upgrade the South Terminal forecourt including access roads.	26	Hotel north of multi-storey car park 3	27	Hotel on the car rental site	28(a), (b), (c) and (e)	Works associated with Hotel on the Car Park H site	29	Works to convert the existing Destinations Place office into a hotel.	30	Works to construct Car Park Y	31	Works associated with Car Park X	32	Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure.	33	Works associated with the existing Purple Parking car park	34	Works to remove Capr Park B South and Car Park North and deliver replacement open space	
23(a) and (c)	Extending the South Terminal International Departure Lounge Works associated with the South Terminal building																										
24	Works to upgrade the North Terminal forecourt including access roads.																										
25	Works to upgrade the South Terminal forecourt including access roads.																										
26	Hotel north of multi-storey car park 3																										
27	Hotel on the car rental site																										
28(a), (b), (c) and (e)	Works associated with Hotel on the Car Park H site																										
29	Works to convert the existing Destinations Place office into a hotel.																										
30	Works to construct Car Park Y																										
31	Works associated with Car Park X																										
32	Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure.																										
33	Works associated with the existing Purple Parking car park																										
34	Works to remove Capr Park B South and Car Park North and deliver replacement open space																										

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO														
	Provision	Amended Text	Explanation												
		<table border="1"> <tr> <td data-bbox="540 451 739 529">38</td> <td data-bbox="739 451 1440 529">Works to construct the habitat enhancement area and flood compensation area at Museum Field</td> </tr> <tr> <td data-bbox="540 529 739 570">39</td> <td data-bbox="739 529 1440 570">Works associated with the River Mole</td> </tr> <tr> <td data-bbox="540 570 739 686">40(a)</td> <td data-bbox="739 570 1440 686">Works associated with land to the north east of Longbridge Roundabout Pedestrian footbridge over the River Mole</td> </tr> <tr> <td data-bbox="540 686 739 727">41*</td> <td data-bbox="739 686 1440 727">Works associated with land at Pentagon Field</td> </tr> <tr> <td data-bbox="540 727 739 844">42**</td> <td data-bbox="739 727 1440 844">Works to establish a habitat enhancement area along Perimeter Road East and Perimeter Road South and a fish pass</td> </tr> <tr> <td data-bbox="540 844 739 885">43</td> <td data-bbox="739 844 1440 885">Works to construct water treatment works.</td> </tr> </table> <p data-bbox="540 922 1440 963">*This reflects the Authorities' proposed amended wording for work 41</p> <p data-bbox="540 963 1440 1003">** to be confirmed: depending on receipt of further details</p>	38	Works to construct the habitat enhancement area and flood compensation area at Museum Field	39	Works associated with the River Mole	40(a)	Works associated with land to the north east of Longbridge Roundabout Pedestrian footbridge over the River Mole	41*	Works associated with land at Pentagon Field	42**	Works to establish a habitat enhancement area along Perimeter Road East and Perimeter Road South and a fish pass	43	Works to construct water treatment works.	
38	Works to construct the habitat enhancement area and flood compensation area at Museum Field														
39	Works associated with the River Mole														
40(a)	Works associated with land to the north east of Longbridge Roundabout Pedestrian footbridge over the River Mole														
41*	Works associated with land at Pentagon Field														
42**	Works to establish a habitat enhancement area along Perimeter Road East and Perimeter Road South and a fish pass														
43	Works to construct water treatment works.														
46.	Sch 13 [Informative] Maximum Parameter Heights	<p data-bbox="540 1109 1440 1149">Heading:</p> <p data-bbox="540 1182 1440 1222">Informative-Maximum Parameter Heights</p> <p data-bbox="540 1263 1440 1304">Insert the following entry:</p>	<p data-bbox="1486 1109 2478 1149">See the Authorities' explanation at D6 [REP6-111] Item 8.</p> <p data-bbox="1486 1182 2478 1222">This would need to be accompanied by changes to the parameter plans.</p>												

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO											
	Provision	Amended Text	Explanation									
		<table border="1"> <thead> <tr> <th data-bbox="542 443 844 565">(1) Work No</th> <th data-bbox="844 443 1145 565">(2) Work description</th> <th data-bbox="1145 443 1446 565">(3) Maximum building or other works height (m)*</th> </tr> </thead> <tbody> <tr> <td data-bbox="542 565 844 724">41(b)</td> <td data-bbox="844 565 1145 724">Works at Pentagon Field to permanently raise the ground level *</td> <td data-bbox="1145 565 1446 724">4 metres</td> </tr> <tr> <td data-bbox="542 724 844 956">38(d)</td> <td data-bbox="844 724 1145 956">Undertake earthworks, landscaping and a bund around the southern and eastern perimeter</td> <td data-bbox="1145 724 1446 956">Bund 6 metres</td> </tr> </tbody> </table> <p data-bbox="542 997 1446 1031">*This reflects the Authorities' proposed amended wording for work 41</p>	(1) Work No	(2) Work description	(3) Maximum building or other works height (m)*	41(b)	Works at Pentagon Field to permanently raise the ground level *	4 metres	38(d)	Undertake earthworks, landscaping and a bund around the southern and eastern perimeter	Bund 6 metres	
(1) Work No	(2) Work description	(3) Maximum building or other works height (m)*										
41(b)	Works at Pentagon Field to permanently raise the ground level *	4 metres										
38(d)	Undertake earthworks, landscaping and a bund around the southern and eastern perimeter	Bund 6 metres										
47.	Various Provisions which require local authority approval	<p data-bbox="542 1068 844 1102">Deeming provisions</p> <p data-bbox="542 1146 1464 1255">The Authorities' primary request is that all the deeming provisions in the various articles mentioned below should be removed. So, for example in article 12, paragraph (4) should be deleted.</p> <p data-bbox="542 1299 1464 1370">The second preference is for "or delayed" to be removed from the various articles as set out below.</p>	<p data-bbox="1486 1068 2478 1177">The Authorities understand that the Applicants are coming forward with amendments at D7 which reflect the Authorities proposals, so these have been submitted on a precautionary basis.</p> <p data-bbox="1486 1221 2478 1330">These amendments tie in with the Authorities' response to ExA question DCO.2.9 about deemed agreement and consent if not given within a certain time.</p>									

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>Article 12(3) (Power to alter layout, etc., of streets)</p> <p>(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority (this consent not to be unreasonably withheld or delayed).</p> <p>Article 14(4) (Temporary closure of streets)</p> <p>(4) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of any street—</p> <p>(a) without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed; and</p> <p>(b) unless a temporary diversion to be substituted for it is open for use and has been completed to the reasonable satisfaction of the street authority.</p> <p>Article 15(1)(c) (Public rights of way – creation, diversion and stopping up)</p> <p>15.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—</p> <p>.....</p>	<p>Whilst the Authorities consider that the deeming provisions contained in art. 12(4) and elsewhere are unnecessary, if the ExA are not persuaded, then the Authorities’ second preference would be for the words “or delayed” to be removed from those provisions which require that consent must not be unreasonably withheld or delayed. Given the deeming provision, the short periods that the authorities have to respond, and the number of applications that may be made at any one time, the words are unnecessary.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO		
	Provision	Amended Text	Explanation
		<p>(c) temporarily close public rights of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way between terminus points, on an alignment to be agreed with the relevant highway authority (in both respects agreement not to be unreasonably withheld or delayed); and</p> <p>Article 16(2) (Access to works)</p> <p>(2) The power in paragraph (1) may only be exercised with the consent of the street authority in consultation with the relevant planning authority (such consent not to be unreasonably withheld or delayed) provided that no consent is required in respect of airport roads.</p> <p>Article 18(6) (Traffic regulations)</p> <p>(6) The undertaker must not exercise the power conferred by paragraph (3) of this article without the consent of the traffic authority (such consent not to be unreasonably withheld or delayed).</p> <p>Article 24(4) (Authority to survey and investigate the land)</p> <p>(4) No trial holes, boreholes or excavations are to be made under this article—</p>	

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
No.	Provision	Amended Text	Explanation
		(a) in land located within a highway boundary without the consent of the relevant highway authority; or (b) in a private street without the consent of the street authority (save for streets within the airport), but such consent must not be unreasonably withheld or delayed .	

Legal Partnership Authorities Proposed List of Amendments to the DCO : Part 2 – New Articles and Schedules		
Provision No.	Amended Text	Explanation
New article: Permit schemes	The Authorities understand that the Applicant will be putting forward amendments to article 10 (application of 1991 Act) at D7. If the amendments reflect the drafting contained in article 11 of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022, the Authorities are likely to be satisfied.	The incorporation of the West Sussex and Surrey permit schemes into the DCO would follow recent precedent (including the two most recent DCOs made in respect of Surrey) and the application of the permit schemes should simplify the processes for street works for both the Applicant and the Authorities.

Legal Partnership Authorities Proposed List of Amendments to the DCO : Part 2 – New Articles and Schedules		
Provision No.	Amended Text	Explanation
New article: Lane rental schemes	<p>Application of lane rental schemes</p> <p>[X].—(1) The lane rental regulations apply to the construction and maintenance of the authorised development and must be complied with by the undertaker in connection with the exercise of any powers conferred by this Part.</p> <p>(2) In this article, “the lane rental regulations” means the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012^[1] as they apply in relation to—</p> <p>(a) Surrey County Council in accordance with the Street Works (Charges for Occupation of the Highway) (Surrey County Council) Order 2021^[2]; and</p> <p>(b) West Sussex County Council in accordance with the Street Works (Charges for Occupation of the Highway) (West Sussex County Council) Order 2022^[3].</p> <p>^[1] S.I. 2012/425 ^[2] S.I. 2021/402 ^[3] S.I. 2022/1257</p>	<p>This subject is under discussion with the Applicant, and it is hoped that agreement can be reached.</p> <p>West Sussex County Council and Surrey County Council both have lane rental schemes in place for certain roads and which are used where undertaker carry out works covered by their permit schemes or under s.278 agreements. The Authorities consider that a provision that ensures they also apply to the Applicant in carrying out and maintaining streets under the powers of the DCO should be included. The amount that is charged by the Councils is governed by national regulations.</p> <p>The national regulations are the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012^[1]</p> <p>And the local regulations (which in turn refer to the two councils’ schemes) are—</p> <p>(a) Surrey County Council in accordance with the Street Works (Charges for Occupation of the Highway) (Surrey County Council) Order 2021^[2]; and</p> <p>(b) West Sussex County Council in accordance with the Street Works (Charges for Occupation of the Highway) (West Sussex County Council) Order 2022^[3].</p>

Legal Partnership Authorities Proposed List of Amendments to the DCO : Part 2 – New Articles and Schedules		
Provision No.	Amended Text	Explanation
		More information about the schemes can be found at this link for Surrey and this link for West Sussex. The West Sussex Scheme is at this link .
New Part in Schedule 9: Highway Land	<p>The Authorities understand that the Applicants 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>	The Authorities' position on acquisition of highway land was rehearsed at CAH1 and in their post hearing submissions [REP4-056]

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
New Requirement Environmentally Managed Growth	A corrected version of the EMGF Requirement is appended to this submission at Appendix 1 .	Please see Appendix I to [REP6-100] which sets out the proposed requirement in full. Regrettably there was a technical difficulty when the requirement was transposed from Word to PDF, resulting in the paragraph numbering being lost
New Requirement Speed limit monitoring Strategy	<p>Speed monitoring and mitigation</p> <p>[X].—(1) No part of the authorised development is to commence until written details of a speed limit monitoring strategy for Airport Way and London Road (A23) has been submitted to and approved in writing by West Sussex County Council [and National Highways].</p> <p>(2) The speed limit monitoring strategy must include—</p> <p>(a) as a minimum, one survey to be carried out before construction of the authorised development commences and two surveys to be carried out after completion of the highway works, to assess the changes in traffic speed on the local [and strategic] highway network;</p> <p>(b) the locations to be monitored and the methodology to be used to collect the required data;</p> <p>(c) the periods over which traffic is to be monitored;</p> <p>(d) the submission of survey data and interpretative report to West Sussex County Council [and National Highways]; and</p> <p>(e) a mechanism for the future approval of additional mitigation measures together with a programme for their implementation.</p> <p>(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.</p>	<p>WSSC have been in discussions with the Applicant about the Road Safety Audit (RSA) associated with the highway works. In relation to Problem 3.1 in the RSA that related to reductions to speed limits on Airport Way and London Road, GAL have stated,</p> <p>"The mitigations proposed as part of the scheme and broader relevant site considerations summarised below, for each link, are considered to be sufficient mitigations at this project stage. However, it is acknowledged that in line with standard practice, speed compliance will be subject to post opening monitoring and additional measures (including speed cameras) could be considered at that stage if deemed necessary. Such measures could be accommodated within the DCO site boundary."</p> <p>The Applicant also goes on to state:</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
		<p>"Road user speeds will be subject to monitoring following completion of the scheme. If the average (mean) speed when the revised A23 London Road comes into operation is at or above 46mph (based on the WSCC policy guidance for a 40mph speed limit) further supporting measures shall be considered with due consideration of potential measures such as additional signage and road marking measures outlined in Table 3 of the West Sussex Speed Limit Policy 2022/2023 that may be considered to be appropriate for implementation at this location."</p> <p>The requirement is intended to ensure that the monitoring and potential mitigation are secured.</p>
<p>New requirement: Air Quality Monitoring</p>	<p>Air quality monitoring</p> <p>[X] - (1) No part of the authorised development shall commence until a plan has been agreed between undertaker and CBC for the carrying out by CBC of monitoring and reporting on the level of NOx/NO2, PM10 and PM2.5 at the CBC monitoring location.</p> <p>(2) The plan under sub-paragraph (1) must provide-</p>	<p>See paragraph 3.4.3 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]</p> <p>Discussions are ongoing with the Applicant about recovery of costs generally, including air quality monitoring costs.</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>(a) that on or before the date on which the authorised development is commenced and annually thereafter the undertaker shall pay CBC the air quality monitoring contribution;</p> <p>(b) that the air quality monitoring contribution shall be used by CBC for the cost of monitoring and reporting on the level of NOx/NO2, PM10 and PM2.5 at the CBC monitoring location as follows-</p> <ul style="list-style-type: none"> (i) data management and audit costs; (ii) local service operator duties; (iii) the cost of servicing the monitoring equipment; (iv) the operational costs and maintenance costs associated with the monitoring equipment; (v) the cost of a member of CBC staff employed to make visits associated with the equipment in order to properly monitor, maintain and report on the same; and (vi) other ancillary work connected to the air quality monitoring as deemed appropriate by CBC. 	

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>(3) From the date on which the authorised development is commenced, CBC may submit a repair or replace request in writing to the undertaker when any of the air quality monitoring equipment at the CBC monitoring location requires to be repaired or replaced.</p> <p>(4) Within 30 working days of receipt of a repair or replace request from CBC pursuant to sub-paragraph (3), the undertaker must either-</p> <ul style="list-style-type: none"> (a) pay CBC the repair or replace contribution specified within the repair and replace request; or (b) agree with CBC that the undertaker will carry out the repair and/or replacement works as set out in the relevant repair or replace request and a proposed timescale. <p>(5) Where the repair or replace request submitted by CBC requires that the contribution is required to replace air quality monitoring equipment in accordance with CBC’s programme of replacement, it shall not be open for the undertaker to suggest that CBC instead repairs the relevant air quality monitoring equipment.</p> <p>(6) Where it is agreed pursuant to sub-paragraph (4)(b) that the undertaker shall carry out the repair and/or replacement works, and upon receipt of not less than 2 working days’ notice, CBC shall provide the undertaker all necessary permissions (in so far as CBC has the capacity to do so) to access the relevant CBC monitoring location.</p> <p>(7) in this paragraph-</p>	

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>“air quality monitoring contribution” means a sum to cover the actual cost incurred by to be paid within 30 working days of receipt of an invoice and used in accordance with sub-paragraph (2)(b);</p> <p>“the CBC monitoring location” means the location shown such location as shown on the [name to be agreed] plan⁽¹⁾ between GAL and CBC from time to time in writing;</p> <p>“CBC’s programme of replacement” means the following replacement cycle for the CBC monitoring location—</p> <ul style="list-style-type: none"> (a) FIDAS Particulate Monitor: replace in 2030, 2040 and 2050; (b) NOX analyser: replace in 2026, 2036 and 2046; (c) Cabinet with aircon: replace in 2030, 2040 and 2050. <p>“repair or replace request” means a request by CBC to GAL for the value of—</p> <ul style="list-style-type: none"> (a) replacing air quality monitoring equipment in accordance with CBC’s programme of replacement; or (b) otherwise repairing faulty equipment at the CBC monitoring locations (or any one of them); 	

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>“repair or replace contribution” means a sum being the value as specified in a relevant repair or replace request or such other sum as is agreed in writing with CBC in its sole discretion and which shall be used by CBC either—</p> <ul style="list-style-type: none"> (a) in accordance with CBC’s programme of replacement for the purposes of replacing air quality monitoring equipment; or (b) for such other repairs to air quality monitoring equipment as may be appropriate; <p>^[1] There will need to be a definition in article 2(1) interpretation and referred to in Schedule 14 (documents to be certified)</p>	
New requirement: Odour management	<p>Odour management and monitoring plan</p> <p>[X] - (1) No part of the authorised development is to commence unless an Odour Management and Monitoring Plan (OMMP) to ensure the management of aviation fuel odour and other odour emissions at the Horley Gardens Estate has been agreed in writing between the undertaker and CBC in consultation with RBBC.</p> <ul style="list-style-type: none"> (2) The OMMP should be based on best practice and include: <ul style="list-style-type: none"> (a) a two stage study to: 	See paragraph 3.4.2 of the Authorities’ update on progress on legal agreements at deadline 6 [REP6-112]

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>(i) determine the ambient concentrations of an appropriate marker for aviation fuel at which fuel odours are perceived on the Horley Gardens Estate;</p> <p>(ii) if the concentrations of the marker determined in sub-paragraph (i) exceed the limit of detection of a suitable field based monitor then such equipment is to be installed at an agreed location for a 1 year period to enable the examination of the distribution of events giving rise to aviation fuel odour;</p> <p>(b) procedures for recording, reviewing monitoring results and adjusting mitigation;</p> <p>(c) procedures for data sharing with the host authorities and reporting to the host authorities;</p> <p>(d) a complaints and resolution process;</p> <p>(e) a communications and engagement plan; and</p> <p>(f) any proposed odour mitigation measures.</p> <p>(3) The undertaker must implement the OMMP agreed under paragraph (1).</p>	
New requirement: Ultrafine particulates	A proposed requirement is under consideration and depending on the outcome of the s.106 negotiations may be included at D8.	See paragraph 3.4.1 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
		Discussions are ongoing with the Applicant about recovery of costs generally, including ultrafine particulate monitoring costs.
New requirement: Ground noise management plan	A new requirement is under consideration and may be included at D8.	<p>This issue is explained in the West Sussex Authorities LIR [REP1-068] at page 234. The idea is that the plan would operate in a complimentary fashion to the noise envelope.</p> <p>As explained in the LIR, the plan would need to include:</p> <ul style="list-style-type: none"> • Predictive ground noise contours for each year. • Verification monitoring and confirmatory actual ground noise modelling. • A list of all mitigation, be they operational, physical, technological or any other mitigation. • Performance standards for the mitigation and how the performance standards are enforced. • Engagement process for monitoring and reporting to LPA and incorporating feedback including undertaking of further studies and provision of additional mitigation.

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
New requirement: Community Annoyance	<p>Aviation noise attitudes surveys</p> <p>[X] - (1) In the event that an ANAS follow up survey has not been published by the Secretary of State or the CAA by the end of 2036, the undertaker must commence an airport-specific follow up survey within 6 months of the date of the third anniversary of the commencement of dual runway operations (if that date is after the end of 2036).</p> <p>(2) The undertaker must publish the airport-specific follow up survey on its website and provide a copy of it to those host authorities which are district councils.</p> <p>(3) In this paragraph—</p> <p>“ANAS follow up survey” means a noise attitudes survey carried out or commissioned by the Secretary of State or the CAA which is a follow up survey to the survey known as the Aviation Noise Attitudes Study (ANAS) 2024, that the Civil Aviation Authority has been commissioned by the Department for Transport to conduct and at the time of the making of this Order was conducting;</p> <p>“airport-specific follow up survey” means a noise attitudes survey to be carried out in relation to Gatwick Airport by the undertaker which follows the methodology used in the Aviation Noise Attitudes Study (ANAS) 2024. Any deviations from the methodology used in the Aviation Noise Attitudes Study (ANAS) 2024 are to be agreed in writing with the host authorities.</p>	<p>See paragraph 3.5.1 of the Authorities’ update on progress on legal agreements at deadline 6 [REP6-112]</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
New requirement: Night time noise cap	A new requirement is under consideration by the Authorities and may be included at D8.	<p>As set out in paragraph 12.189 of the Joint Surrey Local Impact Report [REP1-098], the Authorities consider that this Requirement is necessary to ensure that the night noise levels are as modelled in chapter 14 of the Applicant’s Environmental Statement, which assumes that the current Department for Transport core night movement cap remains in place.</p> <ul style="list-style-type: none"> • In paragraph 14.12.24 of chapter 14 [APP-039], the Applicant states that ‘<i>There is an assumption that for the 42 years beyond 2047 noise levels are assumed constant in order to arrive at a 60-year discounted appraisal result.</i> • In paragraph 14.13.21 of chapter 14 [APP-039]) the Applicant states: ‘<i>Noise changes at night would be lower than during the day because it is assumed that the current night restrictions would continue to cap aircraft numbers in the 23:30-06:00 hours period.</i>’ <p>In view of the government’s consultation on the movement cap and the potential for the nighttime movement gap at Gatwick Airport to change in October 20254, the Authorities</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
		consider the current movement cap should be included in the dDCO by way of a requirement.
New requirement: Noise action plan	A new requirement is under consideration by the Authorities and may be included at D8.	<p>The Authorities understand that the Requirement to Produce a Noise Action Plan (“NAP”) is a regulatory requirement under the Environmental Noise (England) Regulations 2006.</p> <p>Nonetheless – as measures included in the NAP form part of the Applicant’s embedded mitigation – the Authorities are considering whether a requirement should be included in the dDCO which states that, in the event that the NAP is replaced, any future NAP shall secure the same level or more mitigation as the NAP at the date of the DCO and if the obligation to produce a NAP ceased, GAL would provide the same level of mitigation in any event.</p>
Landscape and Ecology Enhancement Fund/Project officer	A new requirement and/or draft unilateral undertaking is under consideration by the Authorities and depending on the outcome of the s.106 negotiations may be included at D8.	See paragraph 3.5.2 of the Authorities’ update on progress on legal agreements at deadline 6 [REP6-112]
New requirement: Tree replacement	Tree replacement	See paragraph 3.5.1 of the Authorities’ update on progress on legal agreements at deadline 6 [REP6-112]

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>[X] - (1) The undertaker must provide the total number of trees as calculated by the tree mitigation contribution formula as part of the authorised development or (if necessary) pay the tree mitigation contribution.</p> <p>(2) Prior to the commencement of any part or parts of the authorised development the undertaker must submit to CBC a landscaping plan and tree schedule for written approval by CBC and must not commence that part or parts of the authorised development until the landscaping plan and tree schedule for that part has been approved by CBC in writing.</p> <p>(3) The undertaker must plant the trees as shown on the approved landscaping plan and tree schedule as part of the authorised development in accordance with the timetable set out in the approved landscaping details plan and tree schedule and notify CBC in writing when these have been planted.</p> <p>(4) In the event that the approved landscaping plan and tree schedule identifies that the total number of trees to be provided as part of the authorised development is less than that required by the application of the tree mitigation contribution formula, the undertaker must pay the tree mitigation contribution to CBC before the commencement of the part of the authorised development which will result in the loss of the tree in question and shall not commence that part of the authorised development until it has paid the tree mitigation contribution to CBC.</p> <p>(5) In this paragraph-</p> <p>“landscaping plan and tree schedule” means a plan showing the landscaping details of the relevant part of the authorised development to include a schedule setting out the number and description of all existing trees to be removed (based on the information supplied pursuant to</p>	

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	<p>requirement 28) and the number, species and size of all new trees to be planted as part of the authorised development with a timetable for the planting of the new trees;</p> <p>“tree mitigation contribution” means the sum sought pursuant to Policy CH6 of the CBC development plan (or any replacement policy) and calculated in accordance with the tree mitigation contribution formula to be paid to CBC to be used towards the provision of tree planting and maintenance in the borough of Crawley or within the area of host authority which is a district council;</p> <p>“tree mitigation contribution formula” means the formula as set out in CBC’s Green Infrastructure Supplementary Planning Document or any document replacing it containing a formula for the payment of contributions towards providing replacement trees.</p>	
New requirement: Hotel parking	<p>Hotel parking</p> <p>[X]—(1) No provision is to be made at the specified hotels for parking other than parking for disabled staff and disabled visitors and for maintenance and servicing vehicles that are required for the operation of the hotel.</p> <p>(2) No provision is to be made at the specified hotels for commuter, staff or customer parking other than for disabled persons.</p> <p>(3) In this paragraph, the “specified hotels” means the hotels described in—</p>	<p>This requirement has been added as an alternative way in which to address the Authorities’ concerns about the lack of detail in the descriptions of some of the hotels which are listed in Schedule 1.</p> <p>It would place limitations on the provision of parking at the hotels listed in sub-paragraph (3) of the proposed requirement.</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements		
Provision No.	Amended Text	Explanation
	(a) Work No. 26; (b) Work No. 27; (c) Work No. 28(a).	
New requirement: Housing provision/fund	A new requirement and/or draft unilateral undertaking is under consideration by the Authorities and depending on the outcome of the s.106 negotiations may be included at D8.	See paragraph 3.7.1 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112].

Appendix 1: EMGF Requirements

SCHEDULE 2

PART 2

REQUIREMENTS ABOUT ENVIRONMENTALLY MANAGED GROWTH

Interpretation

1. In this Part [and Part [X] of this Schedule (appeals)]—

“airport capacity declaration” means the parameters in relation to hourly runway capacity submitted by the airport operator for slot allocation in accordance with regulation 6 of the slots regulations;

“competent person” means a person who has sufficient training and experience or knowledge to undertake monitoring and reporting under this Part;

“consultation period” means the period of 28 days starting on the date of the provision of a relevant report or plan unless another time period is agreed by the undertaker and the ESG;

“council regulation” means Council Regulation (EEC) No 95/93 of 18 January 1993 as retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2018⁽¹⁾;

“Outline EMG Framework” means the document certified as such by the Secretary of State under article 52 (certification of documents, etc.);

“ESG” means the Environmental Scrutiny Group established under paragraph 4;

“exempt flights” means unplanned air transport movements which do not carry commercial passengers, which includes but is not restricted to—

- (a) flights operated by relief organisations for humanitarian reasons;
- (b) flights operated by the armed forces for military purposes; or
- (c) flights which otherwise qualify under a particular occasion or series of occasions which are to be disregarded pursuant to a notice published by the Secretary of State under section 78(4) or 78(5)(f) of the 1982 Act or set out in guidance published by the Secretary of State in connection with those provisions;

“existing capacity declaration” means—

- (a) in relation to a summer season, the last airport capacity declaration issued by the airport operator prior to the date of the submission of the Monitoring Report for a summer season; and
- (b) in relation to a winter season, the last airport capacity declaration issued by the airport operator prior to the date of the submission of the Monitoring Report for a winter season;

“existing number of allocated slots” means—

- (a) in relation to a summer season, the aggregate of the number of slots (in respect of the summer season in the year the Monitoring Report was submitted)—
 - (i) which were eligible for historic precedence at the start of the season together with any slots that became eligible for historic precedence during the season (in each case as determined by the slot co-ordinator for the purposes of article 8 of the council regulation); plus
 - (ii) any other slots allocated by the airport operator’s slot co-ordinator; and
- (b) in relation to a winter season, the aggregate of the number of slots (in respect of the winter season prior to the date the Monitoring Report was submitted)—
 - (i) which were eligible for historic precedence at the start of the season together with any slots that became eligible for historic precedence during the season (in each case as determined by the slot co-ordinator for the purposes of article 8 of the council regulation); plus
 - (ii) any other slots allocated by the airport operator’s slot co-ordinator, in each case, excluding the number of exempt flights in the relevant season;

“Level 2 Plan” means a plan which sets out—

- (a) details of any proposed actions which are designed to avoid or prevent exceedances of a Limit; and
- (b) the proposed programme for the implementation of those actions;

“Level 1 Threshold” means, subject to sub-paragraph (2), each of the air quality, noise, greenhouse gas emissions or surface access thresholds of that description identified in the EMG Framework;

“Level 2 Threshold” means, subject to sub-paragraph (2) and paragraph 3 (exceedance of air quality Level 2 Limit or Threshold) of this Part of this Schedule, each of the air quality, noise, greenhouse gas emissions or surface access thresholds of that description identified in the EMG Framework;

(1) 2018 c. 16.

“Limit” means, subject to sub-paragraph (2) and paragraph 3 (exceedance of air quality Level 2 Limit or Threshold) of this Part of this Schedule, each of the air quality, noise, greenhouse gas emissions or surface access limit of that description identified in the EMG Framework;

“Mitigation Plan” means a plan which sets out—

- (a) details of the proposed mitigation and actions which are designed to remove exceedances of a Limit as soon as reasonably practicable; and
- (b) the proposed programme for the implementation of that mitigation and those actions;

[“Monitoring Plans” means the following plans which when completed will be included as appendices to the EMG Framework—

- (a) an Aircraft Noise Monitoring Plan;
- (b) an Air Quality Monitoring Plan;
- (c) a Greenhouse Gases Monitoring Plan; and
- (d) a Surface Access Monitoring Plan,

or any variations to those plans approved under paragraph 5(5) of this Schedule;]

“Monitoring Report” means a report submitted to the ESG containing monitoring and assessments, prepared by competent persons, of whether a Level 1 Threshold, Level 2 Threshold, or Limit have been exceeded in accordance with the Monitoring Plan;

“slots regulations” means the Airports Slot Allocation Regulations 2006⁽²⁾;

“Technical Panel” means a forum of individuals and bodies who are able to provide suitable independent technical support to the ESG; and

“terms of reference” means—

- (a) for the ESG, the terms of reference which must be set out in the EMG Framework and any amendments agreed in accordance with paragraph 4(4) (Environmental Scrutiny Group) of this Schedule; and
- (b) for each Technical Panel, the terms of reference which must be set out in the EMG Framework and any amendments agreed in accordance with paragraph 4(9) (Environmental Scrutiny Group) of this Schedule.

(2) References to a Level 1 Threshold, Level 2 Threshold, and Limit are to be construed as references to those thresholds and limits which may be revised in accordance with the EMG Framework and paragraph 9 (review of implementation of this Part) of this Schedule.

(3) References to the 1982 Act, or guidance associated with that Act, are, for the purposes of this Part, to be construed as a reference to those provisions or guidance as amended, substituted or replaced, and with such modifications as are required in those circumstances.

(4) The time periods in paragraphs 5 (monitoring of permitted operations), 7 (exceedance of a Level 2 Threshold), 8 (exceedance of a Limit) or 9 (review of implementation of this Part) of this Schedule apply unless another time period is agreed by the undertaker and the ESG or it is modified in accordance with the process in paragraph 9 (review of implementation of this Part) and references to the time period in those paragraphs are to be construed as references to any agreed or modified time periods.

EMG Framework

2.—(1) No part of the authorised development is to commence until an EMG Framework has been submitted to and approved in writing by [the Secretary of State] in consultation with the host authorities so far as it relates to their respective functions.

(2) The EMG Framework submitted pursuant to sub-paragraph (1) must be [substantially] in accordance with the outline EMG Framework.

Exceedance of air quality Level 2 Threshold or Limit

3. For the purposes of this Part of this Schedule, unless otherwise agreed between the undertaker and the ESG, the exceedance of a Level 2 Threshold or Limit relating to air quality requires— an exceedance of the [relevant Level 2 Threshold for air quality as identified in the EMG Framework]; and

Environmental Scrutiny Group

4.—(1) The undertaker must establish a body referred to as the Environmental Scrutiny Group (“ESG”) as soon as reasonably practicable following the making of this Order and in any event no later than 56 days prior to the due date for submission of the first Monitoring Report under paragraph 5 (monitoring of permitted operations) of this Schedule.

(2) The undertaker will request the attendance of the following individuals and competent officers of the following authorities to a meeting held by the ESG—

⁽²⁾ S.I. 2006/2665.

- (a) CBC;
- (b) Horsham District Council;
- (c) Mid Sussex District Council
- (d) MVDC;
- (e) National Highways;
- (f) RBBC;
- (g) Surrey County Council;
- (h) TDC;
- (i) West Sussex County Council;
- (j) representation from a slot allocation expert;
- (k) an independent chairperson appointed in accordance with the terms of reference; and
- (l) an independent aviation specialist appointed in accordance with the terms of reference.

(3) The individual and competent officers in sub-paragraph (2) constitute the members of the ESG for the purposes of this Order from—

- (a) in the case of the independent chairperson, the independent aviation specialist and the slot allocation expert, the date of their appointment in accordance with the terms of reference; and
- (b) in the case of any other individual or competent officer, the date approval is provided by the independent chairperson in accordance with the terms of reference,

and the membership of the ESG may include such additional individuals or bodies as agreed by the ESG and the undertaker.

(4) The ESG must operate, meet and make decisions in accordance with its terms of reference unless—

- (a) otherwise agreed by the ESG and the undertaker, in accordance with the process set out in its terms of reference; or
- (b) where the ESG has not been established in accordance with sub-paragraph (1), otherwise agreed by the bodies listed in sub-paragraph (2)(a) to (g) and the undertaker.

(5) The undertaker is permitted to attend the proceedings of the ESG and may make representations at the proceedings and present reports and plans to the ESG.

(6) The undertaker must establish Technical Panels which will provide technical support to the ESG in relation to each of the following matters—

- (a) air quality;
- (b) greenhouse gas emissions;
- (c) noise; and
- (d) surface access.

(7) The bodies invited to nominate a technical representative, and the appointment of an independent expert, to each Technical Panel will be determined in accordance with its terms of reference.

(8) The technical representatives nominated under sub-paragraph (7) and the independent technical expert will constitute the members of the Technical Panel for the purposes of this Order from the date approval is provided by the independent chairperson of the ESG in accordance with its terms of reference.

(9) Each Technical Panel must operate and make recommendations in accordance with its terms of reference unless otherwise agreed by the ESG and the undertaker, in accordance with the process set out in its terms of reference.

(10) The undertaker is permitted to attend the proceedings of the Technical Panels and may make representations at the proceedings and present reports and plans to the Technical Panels.

(11) Where the terms of reference impose obligations on the undertaker, the undertaker must act in accordance with the terms of reference.

(12) Part VA (access to meetings and documents of certain authorities, committees and sub-committees) of the 1972 Act and the Public Bodies (Admission to Meetings) Act 1960⁽³⁾ do not apply to the ESG, or any Technical Panel, or to its meetings or proceedings.

(13) In this paragraph—

“competent officer” means a local authority officer that has sufficient training and experience or knowledge to consider reports from technical specialists and use these to support a decision-making function linked to a planning consent;

“independent aviation specialist” is an independent and suitably qualified person specialising in aviation;

“independent chairperson” is an independent and suitably qualified person with appropriate aviation experience;

⁽³⁾ 1960 c. 67.

“independent technical expert” means an independent person that is suitably qualified or has significant technical experience in either air quality, greenhouse gas emissions, noise or surface access;

“slot allocation expert” means a representative of a body involved with, or an individual with suitable knowledge, skills and experience related to the implementation and / or operation of the Worldwide Airport Slot Guidelines (WASG), or any successor document to establish best practice for the allocation of airport slots; and

“technical representative” means a representative that is suitably qualified or has significant technical experience in either air quality, greenhouse gas emissions, noise or surface access and excludes elected representatives.

Monitoring of permitted operations

5.—(1) The undertaker must, in accordance with the Monitoring Plans, monitor—

- (a) noise from within the first year operation of the Northern Runway; and
- (b) air quality, greenhouse gas emissions and surface access from 1 January following the end of the calendar year in which this Order comes into force.

(2) The undertaker must prepare and submit to the ESG—

- (a) in respect of noise, the first Monitoring Report no later than 31 July following the end of the calendar year in which this Order comes into force; and
- (b) in respect of air quality, greenhouse gas emissions and surface access, the first Monitoring Report no later than 31 July following the end of the first full calendar year after the date on which this Order comes into force; and
- (c) all subsequent Monitoring Reports on or before 31 July annually thereafter.

(3) Monitoring Reports submitted under sub-paragraph (2) must be prepared in accordance with the Monitoring Plans, which may be amended in accordance with sub-paragraph (5).

(4) Monitoring Plans in respect of noise must include details of dispensed movements for the previous 12 months, including reasons for the dispensation and what measures, if appropriate, would be introduced to reduce these incidents in the future.

(5) The undertaker and the ESG may agree to amend the Monitoring Plans, and such agreement must not be unreasonably withheld.

(6) The undertaker must make a Monitoring Report publicly available as soon as reasonably practicable following submission under sub-paragraph (1).

Exceedance of a Level 1 Threshold

6. Where a Monitoring Report submitted to the ESG under paragraph 5 (monitoring of permitted operations) assesses that a Level 1 Threshold has been exceeded, the undertaker must include in the Monitoring Report commentary on the avoidance of the exceedance of a Limit, including but not limited to any forecasts of future impacts.

Exceedance of a Level 2 Threshold

7.—(1) Where a Monitoring Report submitted to the ESG under paragraph 5 (monitoring of permitted operations) assesses that a Level 2 Threshold has been exceeded, the undertaker must, unless sub-paragraph (3) applies and subject to sub-paragraph (11), submit to the ESG, and consult the ESG on, a draft Level 2 Plan no later than the expiry of the period of 21 days beginning on the day after the date on which the Monitoring Report was submitted to the ESG, unless another time period is agreed by the undertaker and the ESG.

(2) Where a Monitoring Report assesses that more than one Level 2 Threshold has been exceeded in respect of a matter identified in paragraph 4(6), the undertaker may address all of the exceedances which are reasonably considered to be related to one another in the same draft Level 2 Plan for the purposes of sub-paragraph (1) and in the same Level 2 Plan for the purposes of sub-paragraph (5).

(3) This sub-paragraph applies where the ESG certifies, acting reasonably and in accordance with its terms of reference, that a Level 2 Threshold has been exceeded as a result of circumstances beyond the undertaker’s control.

(4) The undertaker must have due regard to any representations provided by the ESG on a draft Level 2 Plan during the consultation period and must provide the ESG with a written account of how any such representations have been taken into account as part of its submission under sub-paragraph (5)(a).

(5) A Level 2 Plan must be—

- (a) prepared and submitted to the ESG no later than 14 days following the last day of the consultation period; and
- (b) approved or refused by the ESG, acting reasonably, no later than 28 days starting the day after the ESG has received the Level 2 Plan under sub-paragraph (a).

(6) A Level 2 Plan may only be refused by the ESG under sub-paragraph (5)(b) where it reasonably concludes that—

- (a) the proposed actions will not avoid or prevent exceedances of a Limit; or
- (b) the proposed programme for the implementation of those actions will not avoid or prevent exceedances of a Limit.

(7) Where the ESG has refused a Level 2 Plan, the undertaker must no later than 42 days starting the day after the decision of the ESG—

- (a) lodge an appeal under paragraph [X] (appeals to the Secretary of State); or
- (b) resubmit a revised Mitigation Plan to the ESG.

(8) Where the ESG has failed to make a decision under sub-paragraph (5)(b) within the time period specified in that sub-paragraph, it is deemed to have approved the Level 2 Plan.

(9) The undertaker must implement the Level 2 Plan approved by the ESG under sub-paragraph (5)(b).

(10) Unless otherwise agreed by the ESG, where a Monitoring Report submitted to the ESG under paragraph 4 (monitoring of permitted operations) assesses that a Level 2 Threshold has been exceeded, and except where sub-paragraph (3) applies, the undertaker will ensure that any future airport capacity declaration does not increase from the existing capacity declaration until a Level 2 Plan has been approved by the ESG or by the Secretary of State under paragraph [X] (appeals to the Secretary of State) or a Monitoring Report confirms that the relevant environmental effect no longer exceeds the relevant Level 2 Threshold.

(11) Where a Level 2 Plan approved by the ESG or by the Secretary of State under paragraph [X] (appeals to the Secretary of State) specifies a period for which that plan will have effect then sub-paragraph (1) does not apply during that period unless—

- (a) an airport capacity declaration specifies the capacity of the airport is greater than any amount specified in the Level 2 Plan; or
- (b) the relevant Level 1 Threshold, Level 2 Threshold or Limit is different from the relevant Level 1 Threshold, Level 2 Threshold or Limit which applied on the date of the submission of the Level 2 Plan under sub-paragraph (5)(b).

(12) Where a Monitoring Report assesses that there has been an exceedance of either one or more Level 2 Thresholds and an exceedance of one or more Limits under paragraph 8 in respect of a matter identified in paragraph 4(6), the undertaker may decide to address all of these exceedances which are reasonably considered to be related to one another in the same draft Mitigation Plan for the purposes of paragraph 8(1) and 9(10) and in the same Mitigation Plan for the purposes of paragraph 8(5).

Exceedance of a Limit

8.—(1) Where a Monitoring Report submitted to the ESG under paragraph 5 (monitoring of permitted operations) assesses that a Limit has been exceeded, the undertaker must, unless sub-paragraph (3) applies and subject to sub-paragraph (15), submit to the ESG, and consult the ESG on, a draft Mitigation Plan no later than the expiry of the period of 21 days beginning on the day after the date on which the Monitoring Report was submitted to the ESG.

(2) Where a Monitoring Report assesses that more than one Limit has been exceeded, the undertaker may decide to address all of the exceedances which are reasonably considered to be related to one another in the same draft Mitigation Plan for the purposes of sub-paragraphs (1) and (10) and in the same Mitigation Plan for the purposes of sub-paragraph (5).

(3) This sub-paragraph applies where the ESG certifies, acting reasonably and in accordance with its terms of reference, that a Limit has been exceeded as a result of circumstances beyond the undertaker's control.

(4) The undertaker must have due regard to any representations provided by the ESG on a draft Mitigation Plan in the consultation period and must provide ESG with a written account of how any such representations have been taken into account as part of its submission under sub-paragraph (5)(a).

(5) A Mitigation Plan must be—

- (a) prepared and submitted to the ESG no later than 14 days starting the day after the consultation period; and
- (b) approved or refused by the ESG, acting reasonably, no later than 28 days starting the day after the ESG has received the Mitigation Plan under sub-paragraph (a).

(6) A Mitigation Plan may only be refused by the ESG under sub-paragraph (5)(b) where it reasonably concludes that—

- (a) the proposed mitigation and actions in the Mitigation Plan will not avoid or prevent exceedances of the Limit as soon as reasonably practicable; or
- (b) the proposed programme for the implementation of those actions will not avoid or prevent exceedances of a Limit as soon as reasonably practicable.

(7) Where the ESG has refused a Mitigation Plan, the undertaker must no later than 42 days starting the day after the decision of the ESG—

- (a) lodge an appeal under paragraph [X] (appeals to the Secretary of State); or
- (b) resubmit a revised Mitigation Plan to the ESG.

(8) Where the ESG has failed to make a decision under sub-paragraph (5)(b) within the time period specified in that sub-paragraph, it is deemed to have approved the Mitigation Plan.

(9) The undertaker must implement the Mitigation Plan approved by the ESG under sub-paragraph (5)(b).

(10) The undertaker must unless sub-paragraph (3) applies prepare and submit an updated Mitigation Plan no later than the expiry of the period of 21 days beginning on the day after the date on which—

- (a) the undertaker submits a Monitoring Report 2 years from the adoption of a Mitigation Plan under sub-paragraph (5)(b) which shows an exceedance of a Limit; or
- (b) a Mitigation Plan approved under sub-paragraph (5)(b) sets out a programme for a Limit not being exceeded and a Monitoring Report shows that an exceedance of a Limit which conflicts with that programme,

whichever is sooner.

(11) Without limitation to seeking a local rule in relation to a Mitigation Plan under sub-paragraph (1) or Level 2 Plan under paragraph 7(1), the updated Mitigation Plan submitted under sub-paragraph (10) must—

- (a) identify whether the application of a local rule (under the slots regulations) to reduce the existing number of allocated slots would reduce, avoid or prevent exceedances of the Limit where other measures cannot ensure an impact falls below the relevant Limit as soon as reasonably practicable; and
- (b) include the proposed programme for seeking in accordance with the slots regulations the introduction of a local rule identified under sub-paragraph (a).

(12) The updated Mitigation Plan under sub-paragraph (10) must be approved or refused by the ESG no later than 28 days starting the day after the ESG has received the Mitigation Plan.

(13) Where the ESG has failed to make a decision under sub-paragraph (12) within the time period specified in that sub-paragraph, it is deemed to have approved the updated Mitigation Plan.

(14) The undertaker must implement a Mitigation Plan approved under sub-paragraph (12).

(15) Unless otherwise agreed by the ESG, where a Monitoring Report submitted to the ESG under paragraph 5 (monitoring of permitted operations) assesses that a Limit has been exceeded, the undertaker will ensure that, until monitoring carried out in accordance with a Mitigation Plan or a Monitoring Report confirms the relevant environmental effect has fallen below the relevant Limit, any future airport capacity declaration—

- (a) does not increase from the existing capacity declaration; and
- (b) includes criteria to ensure that the total number of allocated slots (excluding any exempt flights) does not exceed the existing number of allocated slots.

(16) Where a Mitigation Plan approved by the ESG or by the Secretary of State under paragraph [X] (appeals to the Secretary of State) specifies a period that plan will have effect then—

- (a) sub-paragraph (1); and
- (b) sub-paragraph (10),

do not apply during that period unless sub-paragraph (10)(b) applies.

Review of implementation of this Part

9.—(1) The undertaker must undertake a review of the implementation of this Part of this Schedule, including the review of any Monitoring Plans and arrangements for funding, no later than 3 years from the date on which this Order comes into force, and every 5 years following this initial review, and produce and submit to the ESG a report which sets out whether any improvements to the operation of this Part of this Schedule are considered necessary to ensure the efficient and effective operation of authorised development within the Limit.

(2) The undertaker may, following a review carried out under sub-paragraph (1) or otherwise, submit an application to modify the specified periods to the ESG where it considers it necessary for effective implementation of this Part of this Schedule.

(3) The undertaker must, following a review carried out in accordance with the EMG Framework, which concludes that there are grounds for a modification of a Level 1 Threshold, Level 2 Threshold, Limit, or Monitoring Plan, submit an application for that modification to the ESG.

(4) The ESG must, acting reasonably, approve or refuse an application submitted under sub-paragraph (2) and (3) no later than the expiry of the period of 56 days beginning with the day after the ESG has received the application.

(5) Where the ESG has approved an application submitted under sub-paragraph (2) or (3), the terms of reference are deemed to have been varied to give effect to that approval.

(6) Where the ESG has failed to make a decision under sub-paragraph (4) within the time period specified, it is deemed to have approved the application.

Legal Partnership Authorities

Gatwick Airport Northern Runway DCO (TR020005)

(7) References to the specified periods in this Part of this Schedule are to be construed as references to any modified periods approved under sub-paragraph (4) by the ESG or approved by the Secretary of State under paragraph [X] (appeals to the Secretary of State).

(8) In this paragraph “specified periods” means any time period set out in relation to consultation, approval or submission of a Monitoring Report, Level 2 Plan or a Mitigation Plan.