



Gatwick Airport Northern Runway Project

Statement of Reasons – Clean Version

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Executive Summary

- 1.1.1 This Statement of Reasons relates to the application made by Gatwick Airport Limited ("GAL") to the Secretary of State via the Planning Inspectorate under the Planning Act 2008 (the "Application"). The Application is for development consent to authorise alterations to the existing northern runway at Gatwick Airport which, together with the lifting of the current restrictions on its use, would enable dual runway operations. In addition, the Application proposals include the development of a range of infrastructure and facilities which, with the alterations to the northern runway, would enable an increase in the airport's passenger throughput capacity (the "Project").
- 1.1.2 This Statement describes the compulsory acquisition and temporary possession powers that GAL will need and the land over which they are needed to deliver the Project as well as justifying why GAL needs those powers over that land. This Statement sets out how the relevant legal tests are satisfied, including why there is a compelling case in the public interest for GAL, as promoter of the Project, to be granted these powers in respect of the land.
- 1.1.3 GAL is the owner and operator of the existing Gatwick Airport and already owns 93% of the land required for the Project. However, this Statement explains why GAL has sought the necessary powers to ensure that it has sufficient control of the land to deliver the Project. Whilst GAL will seek to acquire such land by agreement wherever reasonably possible, the need to ensure that the Project can be delivered requires the inclusion of the compulsory acquisition and temporary possession powers provided for in the **Draft Development Consent Order** (Doc Ref 2.1).
- 1.1.4 Appendices A and B to this Statement have been superseded by the **Land Rights Tracker** (Doc Ref. 8.6).

2 Introduction

2.1 Introduction

2.1.1 This Statement of Reasons relates to an application made by Gatwick Airport Limited ("GAL") for development consent to enable dual runway operations at Gatwick Airport (the "Application"). The Application is made to the Planning Inspectorate, acting on behalf of the Secretary of State, under section 37 of the Planning Act 2008 (the "2008 Act") (Ref 1.1).

2.1.2 The Application seeks powers to enable dual runway operations at Gatwick Airport through altering the existing northern runway, lifting restrictions on the northern runway's use and delivering the upgrades or additional facilities and infrastructure required to increase the passenger throughput capacity of the airport (the "Project"). As such, it is a nationally significant infrastructure project ("NSIP") under the 2008 Act. The Project also includes substantial upgrade works to the surface access routes which lead to the airport. The proposed works to the highways constitute NSIPs in their own right under the 2008 Act. The development required for the Project is summarised in Section 3 of this Statement and described in detail in **ES Chapter 5: Project Description** [[REP6-013](#)].

2.1.3 Although GAL currently owns 93% of the land required to deliver the Project, the **Draft Development Consent Order** ("Draft DCO") (Doc Ref. 2.1), includes provisions for the powers to bring into its ownership the land and rights which are necessary for the delivery of the Project. The land over which GAL is seeking compulsory acquisition and temporary possession powers is referred to in this Statement as the "Order land".

2.2 Purpose of the Statement of Reasons

2.2.1 As the Application includes a request for the Secretary of State to grant powers of compulsory acquisition and temporary possession pursuant to sections 122(2)(a), 122(2)(b) and 122(2)(c) of the 2008 Act, GAL is required to submit a Statement of Reasons. The Statement has been prepared in compliance with the requirements of regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the "APFP Regs") (Ref 1.2).

2.2.2 Government guidance has been provided on the content of a Statement of Reasons and this Statement of Reasons has been drafted to reflect that guidance. The relevant Government guidance was published by the former Department for Communities and Local Government:

- "Planning Act 2008: guidance related to procedures for compulsory acquisition" published in September 2013 (Ref 1.3) (the "CA Guidance");
- "Planning Act 2008: guidance on associated development applications for major infrastructure projects" published in April 2013 (Ref 1.4) (the "Associated Development Guidance"); and
- "Planning Act 2008: application form guidance" published in June 2013 (Ref. 1.5) (the "Application Form Guidance").

2.2.3 Section 122(2) of the 2008 Act provides that a DCO may include provisions authorising compulsory acquisition of land if the land:

- is required for the development to which the development consent relates (section 122(2)(a));
- is required to facilitate or is incidental to that development (section 122(2)(b)); or

- is replacement land which is to be given in exchange for the Order land under Section 131 or Section 132 of the 2008 Act (open spaces, common land etc.) (section 122(2)(c)),

and that there is that there is a compelling case in the public interest for the land to be acquired compulsorily (section 122(3)).

- 2.2.4 This Statement of Reasons provides further detail about the compulsory acquisition and temporary possession powers being sought under the **Draft DCO** (Doc Ref. 2.1), explains why those powers are necessary to enable the Project to proceed and sets out the necessary justifications including why there is a compelling case in the public interest to grant those powers.

2.3 Structure of the Statement of Reasons

- 2.3.1 This Statement is structured as follows:

- **Section 3 Description of the Project:** describes the proposals that form the Project and therefore the Application, and the land on which the Project is proposed to be delivered. It is for these proposals that the compulsory acquisition and temporary possession powers over the specified areas of land are required.
- **Section 4 Need for and the Benefits of the Project:** explains why there is a need, in policy terms, for the Project and describes the benefits to the environment, local community and nation as a whole which would materialise as a result of the Project.
- **Section 5 Scope of Compulsory Acquisition:** explains the scope of the compulsory acquisition and temporary possession powers GAL is applying for as part of this application.
- **Section 6 The Purpose and Case for Compulsory Acquisition Powers:** provides the justification for seeking the powers of compulsory acquisition and temporary possession which are included in the Application demonstrating how the tests set out in the APFP Regulations and relevant Government guidance are met.
- **Section 7 Identification of Land Interests:** describes how GAL has identified those with existing interests in the Order land.
- **Section 8 Engagement and negotiations:** describes GAL's approach to communication and negotiation with owners of affected land and statutory undertakers.
- **Section 9 Related applications and Consents:** identifies other consents which are or may be required to allow GAL to implement the Project in addition to the DCO and the status of these.
- **Section 10 Special considerations affecting land:** explains the approach to open space land, Crown land and land and interests held by statutory undertakers.
- **Section 11 Conclusion:** explains why the compulsory acquisition and temporary possession powers described in this Statement are necessary to deliver the Project and how the tests to justify these powers set out in law and guidance have been met.

- 2.3.2 Appendices A and B to this Statement have been superseded by the **Land Rights Tracker** (Doc Ref. 8.6). The Land Rights Tracker does both of the following:

- describes the ongoing engagement with those who have been identified as owning land over which compulsory acquisition and temporary possession powers are being sought and the progress being made to reach a commercial agreement for GAL to acquire the necessary interests or rights without exercising any powers. It includes the powers which

are being sought over those plots of land and the reason those powers are necessary specifically over those plots.

- describes the ongoing engagement with statutory undertakers who have been identified as having assets or land interests in the Order land which may be affected by the delivery of the Project.

2.3.3 As part of the Application, GAL has submitted the following documents which also relate to the compulsory acquisition and temporary possession powers being sought and these should be read alongside this Statement:

- the **Land Plans** (Doc Ref. 4.2) which show the land that would be acquired and land subject to temporary possession;
- the **Special Category Land Plans** [REP3-010] which show (i) the special category land to be acquired permanently, (ii) the special category land over which rights will be acquired and (iii) the land which will be laid out as replacement open space by GAL (albeit that this land is no longer treated as "replacement land" for the purposes of section 131(4) of the 2008 Act);
- the **Crown Land Plans** [APP-015] which show the land required for the Project in which the Crown holds an interest;
- the **Book of Reference** ("BoR") (Doc Ref. 3.3) which contains details of the interests or rights in land which may be acquired and the names and addresses of all those who may be affected by the proposed acquisition or use of other powers described in this Statement of those interests or rights;
- The **Funding Statement** [APP-009] which explains how the Project, including any land compensation costs, will be funded;
- The **Draft DCO** (Doc Ref. 2.1) which sets out the powers which are being applied for over the Order land and the proposed restrictions to the use of those powers; and
- The **Explanatory Memorandum to the Draft DCO** (Doc Ref. 2.2) which explains the drafting in the Draft DCO and provides examples of the drafting has been used elsewhere.

3 Description of the Project

3.1 Gatwick Airport

3.1.1 Gatwick Airport is one of the six international airports serving London's area. It has been an aerodrome since the 1930s and in 2019 facilitated approximately 46 million passengers to travel nationally and internationally.

3.1.2 Currently only the main runway of the airport is in full operation and this constrains the passenger throughput capacity of the airport. The northern runway is used in cases when the main runway is unavailable or in the event of an emergency. The airport hosts two terminals and multiple additional facilities to support passengers as they use the airport including hotels and car parks. These have been designed to accommodate the current passenger throughput of the airport.

3.1.3 The Project proposes alterations to the existing northern runway which, together with the lifting of the current planning restrictions on its use, would enable dual runway operations. The Project includes the development of a range of infrastructure and facilities which, with the alterations to the northern runway, would enable an increase in the airport's passenger throughput capacity.

The Project will increase Gatwick Airport's capacity by more than 10 million passengers per annum (mppa) and will also provide for major improvement to the surrounding strategic road network serving Gatwick Airport's North and South Terminals.

3.2 Authorised Works

3.2.1 A full description of the development works required for the Project is included in **ES Chapter 5: Project Description** [[REP6-013](#)] and the specific works being applied for are listed in Schedule 1 of the **Draft DCO** (Doc Ref. 2.1).

3.2.2 The key development elements of the Project include:

- repositioning of the existing northern runway to enable dual runway operations;
- repositioning of existing taxiways and stands and construction of additional taxiways and stands including a new pier;
- reconfiguration of existing airfield facilities;
- extensions and improvements to the existing North and South Terminals;
- provision of additional hotels, office space and car parking;
- improvements to the surface access to the airport including highway works;
- reconfiguration of utility service assets including water treatment, drainage and power; and
- delivering landscape and ecological mitigation and open space land.

3.2.3 Due to the nature of the design process and the timing of the consenting process, GAL requires a degree of flexibility as to where certain elements of the Project, particularly the highway works and some of the runway exit/entrance taxiways, can be constructed. The **Draft DCO** (Doc Ref. 2.1) provides for specific development to be carried out within defined limits of deviation. A description of, and an explanation for this flexibility is in Chapter 5 of the **Planning Statement** [[APP-245](#)].

3.2.4 At this stage, all of the Order land is considered to be necessary to deliver the Project. However, should it transpire that any part of the Order land is not required, for instance, as a result of the detailed design process, GAL would only seek to acquire that part of the land required, and in all events, will seek to minimise the effects on land interests.

3.2.5 The Project is a NSIP under sections 22 (highways) and 23 (airports) of the 2008 Act because:

- it proposes alterations to Gatwick airport which would increase the passenger throughput capacity at the airport by at least 10 million per annum (section 23(1)(b), (4), (5) and (6)); and
- the proposed improvements to the North Terminal and South Terminal roundabouts would each individually involve the alteration of a highway where the strategic highways company is the highway authority and where the speed limit is 50 mph or over and the works each exceed the 12.5 hectare limit that applies to that category of road (section 22(1)(b), (3) and (4)).

3.2.6 The Project also includes 'other associated development' as defined in Schedule 1 of the **Draft DCO** (Doc Ref. 2.1), which is connected with the construction, operation or maintenance of the NSIP elements of the Project.

3.2.7 Further explanation of how the Project qualifies as an NSIP in regards to the two elements of development is included in the **Explanatory Memorandum to the Draft Development Consent Order** (Doc Ref. 2.2) and the **Planning Statement** [APP-245].

3.3 The Order Land

3.3.1 The Project is predominantly located in Crawley, West Sussex with some of the surface access infrastructure located in Surrey. The town of Crawley is to the south of the site and sits within West Sussex. Horley is the town to the north east of the site and is within the borough of Reigate and Banstead.

3.3.2 Most of the Project will be delivered on the sites of the existing Gatwick Airport and surface access highway routes to it with some additional neighbouring parcels of land being required for specific works. The land surrounding the airport and existing roads is mainly arable and residential with some commercial facilities which predominantly support operations or activities at the airport. The full extent of the site is shown on the **Location Plan** [APP-013].

3.3.3 As an operational airport and highway there are multiple land uses of the site as it currently exists. The existing access roads consist of the M23 Spur from the east by which vehicles can access the airport via the South Terminal Roundabout or can continue on to access the airport via the North Terminal Roundabout along Airport Way. The Northern Terminal Roundabout also provides access to the A23 London Road which takes vehicles on to Longbridge Roundabout to the north of the airport.

3.3.4 The **Land Plans** (Doc Ref. 4.2) show plots of pink, blue and green which together comprise the "Order land". The Order land is made up only of those plots of land over which GAL is applying for acquisition of land (shown as pink) or permanent acquisition rights (shown as blue, or green in the case of presumed highway) through this Application. GAL is applying for temporary possession powers over the full extent of the Order land.

3.3.5 The "Order limits" are shown edged red on the **Land Plans** (Doc Ref. 4.2) and this is the full extent of the land which is required to deliver the Project. The Order limits are not limited to just those parts over which GAL is applying for compulsory acquisition or temporary possession powers to deliver the project.

4 The Need for and the Benefits of the Project

4.1.1 This section provides an overview of the relevant policy context and then describes the need for and benefits of the Project. The policy context and need for and benefits of the Project are covered in more detail in the **Needs Case** [APP-250] and the **Planning Statement** [APP-245] which accompany the Application for development consent.

4.1.2 Government policy is clear about the critical importance of aviation to the nation's economic health and the UK's status in the world. The most up to date statement of policy explains that "a central aspect of achieving our future ambitions will be to continue to enhance our global aviation impact. At the heart of aviation is facilitating travel internationally to connect people, goods and businesses across the globe. The UK will promote and improve its global connectivity to facilitate sustainable growth." (Flightpath to the Future, May 2022, page 18 (Ref 1.6)). Consequently, "The Government is committed to growth. We will work closely with industry to continually assess how

we can best support sustainable recovery and a bright future for UK aviation.” (Flightpath to the Future, May 2022, page 19).

- 4.1.3 However, the UK’s aviation sector is capacity constrained. In 2012, aware of the severity of the issue and the damage to the UK that a lack of capacity causes, the Government appointed the Airports Commission to assess and recommend how capacity constraints could be addressed. The findings were unequivocal:

“Across all scenarios considered, including where the UK is meeting its climate change targets, there is significant growth in demand for aviation between now and 2050, placing additional pressure on already stressed airport infrastructure in London and the South East. The London airport system is forecast to be under very substantial pressure in 2030 ...problems are starting to emerge and are likely to get worse. Heathrow is effectively full. Gatwick is operating at more than 85% of its maximum capacity, and is completely full at peak times. Capacity constraints are making it more and more difficult for airports and airlines to operate efficiently.” (Interim Report of the Airports Commission, 2015, Executive Summary (Ref 1.7)).

- 4.1.4 However, more than a decade later, growth in demand has continued but little additional capacity has been consented, The Government’s policy approach is clear:

“The UK now faces a significant capacity challenge. Heathrow Airport is currently the busiest two-runway airport in the world, while Gatwick Airport is the busiest single runway airport in the world. London’s airports are filling up fast, and will all be full by the mid-2030s if we do not take action now.” (Airports National Policy Statement, June 2018, paragraph 2.11 (Ref 1.8)).

- 4.1.5 The consequences of not taking action are recognised as damaging to the UK through a lack of opportunity for global connectivity but also for the impact capacity constraints have on the quality and efficiency of the UK’s airports:

“Operating existing capacity at its limits means there will be little resilience to unforeseen disruptions, leading to delays. Fares are likely to rise as demand outstrips supply, and the lack of available slots makes it more difficult for new competitors to enter the market.”

The Government believes that not increasing capacity will impose costs on passengers and on the wider economy.” (Airports National Policy Statement, June 2018, paragraphs 2.15-16).

- 4.1.6 These issues are already apparent at Gatwick Airport (referred to as 'Gatwick'), which is the world’s busiest daytime single runway airport and which experiences delays and operational constraints on a day to day basis, whilst suffering from a lack of resilience to cope with more abnormal events.

- 4.1.7 Despite these constraints, throughput at Gatwick grew by more than at any other UK airport in the 5 years to 2019 and, whilst the pandemic seriously affected Gatwick and all other airports, recovery has been rapid with a recovery to more than 80% of passenger numbers by the summer of 2022. At Gatwick, demand demonstrably exceeds supply – to the extent that there is a severe shortage of takeoff and landing slots with 21 airlines allocated less than 40% of their requested demand. A secondary market has developed with slot premiums increasing and costs being passed on to passengers through increased fares, directly contrary to government objectives. These issues can only be addressed by consenting additional capacity at Gatwick.

- 4.1.8 Gatwick's network is the most extensive of all the London airports. In 2019 Gatwick served 219 destinations compared to 211 at Heathrow, 185 at Stansted and 139 at Luton. Gatwick is the second ranked airport in the London system for long haul (non-Europe) connectivity with 62 destinations compared to 2 at Luton and 7 at Stansted. Gatwick Airport has become a key piece of national infrastructure, an economic engine for local and regional growth, and the airport of choice for millions of passengers.
- 4.1.9 In the absence of the Project, Gatwick can achieve incremental growth (and the 2019 passenger throughput of 46mppa is forecast to grow to 62 mppa by 2038) but only with an increase in forecast delays and a continuing lack of resilience. Without the Project these issues will not be addressed and Gatwick will fail to meet its inherent demand and to significantly contribute to the acute lack of capacity in the South-East.
- 4.1.10 The need for that capacity is already apparent and the extra capacity overdue. However, the need is forecast to intensify significantly. The latest forecasts set out in the Government's Jet Zero Strategy (Ref 1.9) predict a growth of 70% in passenger demand between 2018 pre-pandemic levels and 2050. The Jet Zero Strategy explains that the Government is determined to meet the challenge (and the opportunity) posed by the forecasts and is clear that to do so is not incompatible with the Government's climate change commitments, because a comprehensive set of measures is in place to secure a reduction in aviation's carbon emissions. The scale of the forecasts, however, means that best use must be made of all airport infrastructure, as well as a third runway at Heathrow. The Jet Zero Strategy modelling makes clear that the capacity offered by the Project at Gatwick is required as well as the third runway and making best use of other South-East airport infrastructure.
- 4.1.11 The Project is an innovative means of achieving additional runway capacity for Gatwick, for the South-East and for the UK without the scale of land take and associated impacts normally associated with providing a new additional runway. It can also be provided relatively quickly, with the Project forecast to be operational in 2029, in time to meet forecast demand for 2030 and well ahead of any third runway at Heathrow or the more limited capacity gain proposed for the later 2030s at Luton.
- 4.1.12 The Project would bring a wealth of operational benefits to Gatwick and would unlock demand for growth at the airport which is already apparent. It would also serve to reinforce the role which Gatwick plays nationally and at the centre of the local economy. By the time the runway is fully operational in 2032, it will create a net increase in employment of 14,000 jobs and create an extra £1bn in Gross Value Added across the sub-regional Six Authorities area.
- 4.1.13 Oxford Economics has estimated that it could provide a one-off boost to the capacity of the economy of 0.15% of gross domestic product (equivalent to approximately £3.3bn in 2019) through the benefits of improved connectivity that support trade and investment. A copy of this report has been included with the Application as **Needs Case Appendix 2 – The Economic Impact of Gatwick Airport: A Report by Oxford Economics** [\[APP-252\]](#). Please also see the **National Economic Impact Assessment** appended as **Needs Case Appendix 1** [\[APP-251\]](#).
- 4.1.14 It will also significantly boost tourism's contribution to gross domestic product by nearly £2bn and support a further 26,000 jobs.

- 4.1.15 The economic cost-benefit analysis shows that the scheme's benefits significantly outweigh its costs (including environmental and carbon costs) with a Net Present Value (NPV) of around £10bn in addition to substantial non-monetised employment and trade-related benefits.
- 4.1.16 Overall, there is a strong need for the Project, it is supported by the Government's policy of making best use of Gatwick Airport's existing runway and will deliver substantial economic and socio-economic benefits in terms of jobs created and an increase in economic activity in the local area.

5 Scope of Compulsory Acquisition

5.1 Introduction

5.1.1 Section 120(3) of the 2008 Act provides that a DCO may make provision relating to, or matters ancillary to, the development for which consent is granted. Schedule 5 to the 2008 Act lists the matters ancillary to the development. These include (amongst others):

- the acquisition of land, compulsorily or by agreement (paragraph 1);
- the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
- the abrogation or modification of agreements relating to land (paragraph 3); and
- the payment of compensation (paragraph 36).

5.1.2 Without the compulsory acquisition and temporary possession powers described in this Statement there would be insufficient certainty about GAL's ability to deliver the Project in totality and within the necessary timescale. Powers of compulsory acquisition are also required as a means of overriding existing rights and interests in, or over, land, as well as creating new rights over land, and granting the right to take temporary possession of land. GAL therefore requires such powers to be included in the DCO, notwithstanding its preference to acquire the necessary interests in land and acquisition/ extinguishment of rights by voluntary agreement.

5.1.3 If exercised, the powers that GAL is seeking may result in an interference with property rights and private interests in land. The **Draft DCO** (Doc Ref. 2.1) provides that where these powers are exercised, the owner of the affected land may be entitled to compensation under the Compensation Code (Ref 1.10). Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.

5.1.4 The scope of the proposed powers is set out below, and all references to an 'article' are references to an article of the **Draft DCO** (Doc Ref. 2.1). All of these articles in the **Draft DCO** (Doc Ref. 2.1) are considered important / essential to the delivery of the Project.

5.2 Description of compulsory acquisition and other powers sought that interfere with third party rights

5.2.1 The main powers authorising the acquisition of land, or of interests in and/or rights in, over or under land are contained in Article 27 (compulsory acquisition of land), Article 28 (compulsory acquisition of rights and imposition of restrictive covenants), Article 30 (statutory authority to override easements and other rights) and Article 32 (private rights of way) of the **Draft DCO** (Doc Ref. 2.1).

5.2.2 The land permanently required by GAL for the purposes of the Project comprises a combination of land (including subsoil and airspace), surface rights and restrictive covenants on which the Project will be constructed and delivered.

5.2.3 The **Land Plans** (Doc Ref. 4.2) show land and rights over which compulsory acquisition and temporary possession powers are sought and the powers being sought are also listed in the **BoR** (Doc Ref. 3.3). On the Land Plans the plots are coloured to show the type of power that is required over each plot of land to deliver the Project. These are:

- Pink: power to compulsorily acquire all freehold and leasehold interests; and
- Blue: power to compulsorily acquire rights by the creation of new rights or the imposition of restrictive covenants.
- Green: power to compulsorily acquire rights by the creation of new rights or the imposition of restrictive covenants in respect of presumed highway.

- 5.2.4 Plots coloured pink, blue or green on the **Land Plans** (Doc Ref. 4.2) will also be subject to temporary possession powers and a statutory authority to override easements and other rights, and to extinguish private rights of way upon the appropriation of the land for the purposes of the Project.
- 5.2.5 Where a plot is shown as grey on the **Land Plans** (Doc Ref. 4.2), no powers of compulsory acquisition or temporary possession are sought in the **Draft DCO** (Doc Ref. 2.1). The plots are, [on the whole,] within the existing airport boundary and form part of the operational airport. The land has been included to ensure coherence in the airport boundary and to make clear that such land, forming part of the operational airport, remains subject to (as well as benefitting from) the powers and controls secured by the DCO. This land remains within the Order limits as the entire airport needs to receive the benefit of development consent to construct, operate and maintain the authorised development.
- 5.2.6 Whilst GAL is not anticipating carrying out any works related to this Project within these plots, they have been included within the Order limits because as detailed design progresses it may be desirable to carry out minor works such as protective works or utility diversion works within their area, and so require to benefit from the corresponding powers within the **Draft DCO** (Doc Ref. 2.1). Within this context GAL considers that it either already has sufficient land rights over these plots (the overwhelming majority fall within GAL's freehold ownership) or it can obtain the land rights through private agreement where necessary, and without requiring any powers of compulsory acquisition or temporary possession.
- 5.2.7 [Although plots E/39, E/40 E/41 and E/42 are outside of the existing airport boundary, they have been included and shaded grey to be subject to and benefit from the powers and controls secured by the DCO as a result of Project Change 3 described in the **Third Change Application Report** (Doc Ref. 10.60).]
- 5.2.8 The grey plots have been shown on the **Land Plans** (Doc Ref. 4.2) because they are retained within the Order limits and are required for and will be affected by the Project (Regulation 5(2)(i)(i) of the APFP Regulations). The details of the relevant owners in the grey plots have been included in **BoR** (Doc Ref. 3.3) because the plots fall within the Order limits, and it is intended that part of the works may be carried out in that land (Regulation 7 of the APFP Regulations).
- 5.2.9 The grey plots are referenced on the **Land Plans** (Doc Ref. 4.2) and within the **BoR** (Doc Ref. 3.3) with a prefix of "E" and are included in Part 2b of the **BoR** (Doc Ref. 3.3). Where there are multiple grey areas with the same combination of HMLR titles, they have been collated and assigned the same plot number to make sure that the **Land Plans** (Doc Ref. 4.2) and **BoR** (Doc Ref. 3.3) are accessible. These plot numbers are E/7, E/29 and E/30. On the **Land Plans** (Doc Ref. 4.2), the multiple grey areas that form a singular plot number are shown outlined in a singular colour as follows: areas forming plot number E/7 are outlined in orange, areas forming plot number E/29 are outlined in pink and areas forming plot number E/30 are outlined in purple.

5.3 Summary of relevant permanent powers

- 5.3.1 Article 27 (compulsory acquisition of land): this article would allow GAL to compulsorily acquire any of the Order land where that land is required for the construction and/or delivery of the Project, or is required to facilitate it, or is incidental to those activities or is required as replacement land and to use the acquired land for the purpose authorised in the **Draft DCO** (Doc Ref. 2.1) or any other connected purpose.
- 5.3.2 This article is subject to Article 28 (compulsory acquisition of rights and imposition of restrictive covenants), Article 31 (time limit for exercise of authority to acquire land compulsorily), Article 35 (acquisition of subsoil and airspace only), Article 36 (rights under or over streets), Article 44 (Crown rights) and Schedule 9 (protective provisions).
- 5.3.3 Article 28 (compulsory acquisition of rights and imposition of restrictive covenants): this article would allow GAL to compulsorily acquire existing and new rights, as well as impose restrictive covenants over the Order land, for example where a right of access is to be created for the permanent benefit of GAL. Where GAL only needs to acquire rights over land, it is not required to acquire a greater interest in the land. Schedule 7 specifies those plots of land in which only new rights etc. may be acquired and these are shown on the **Land Plans** (Doc Ref. 4.2) shaded blue and green (in relation to presumed highway).
- 5.3.4 Article 29 (compulsory acquisition of land – incorporation of the mineral code): this article would effectively exempt existing rights in minerals from the scope of compulsory acquisition and provides for a procedure for an owner wishing to work mines or minerals.
- 5.3.5 Article 30 (statutory authority to override easements and other rights): rather than automatically extinguishing all third-party rights, GAL may elect to interfere with rights or breach restrictive covenants in the course of constructing or delivering the Project.
- 5.3.6 Article 31 (time limit for exercise of authority to acquire land compulsorily): this article would provide that GAL must exercise its power to acquire land or interests within seven years of the later of the end of the period for legal challenge in respect of the DCO under section 118 of the 2008 Act or the final determination of any legal challenge under that section. This ensures that landowners of the Order land have certainty as to whether or not their land or rights over their land are to be acquired within a set period of time.
- 5.3.7 Article 32 (private rights of way): this article would provide for the extinguishment of private rights of way over land subject to compulsory acquisition from the date of acquisition of land or on the date of entry, whichever is earlier. Private rights of way over land subject to temporary possession would be suspended whilst GAL is in possession of the land.
- 5.3.8 Article 33 (modification of the 1965 Act): this article amends provisions of the Compulsory Purchase Act 1965 so they are consistent with the terms and timeframes under the DCO.
- 5.3.9 Article 34 (application of the 1981 Act and modification of the 2017 Regulations): this article would provide for the application of the Compulsory Purchase (Vesting Declarations) Act 1981, containing the vesting procedures for land subject to compulsory acquisition. It would allow GAL to choose between the notice to treat procedure or the general vesting declaration procedure set out in the Compulsory Purchase (Vesting Declarations) Act 1981. Vesting declarations allow title in land concerned to pass to the acquirer more quickly than using the notice to treat procedure.

They also enable several parcels of land to be acquired at the same time, and therefore more efficiently, than under the notice to treat procedure. This article also clarifies that GAL will be a body or person authorised to acquire land for the purposes of the vesting declaration procedure. The article would vary the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017 to ensure that interests and rights intended to benefit a third party (such as a statutory undertaker) can vest in that third party instead of GAL, avoiding the administrative burden of acquiring them in GAL's own name and then transferring them on to the intended beneficiary.

- 5.3.10 Article 35 (acquisition of subsoil or airspace only): this article would authorise GAL to compulsorily acquire so much of, or such rights in, the subsoil of and airspace over any land acquired under Article 27 (compulsory acquisition of land). It also confirms that in such circumstances GAL would not be required to acquire an interest in any other part of the land. The purpose of Article 35 is to minimise so far as is possible the extent of interests GAL needs to acquire, resulting in less impact on landowners.
- 5.3.11 Article 36 (rights under or over streets): this article would enable GAL to occupy the subsoil or airspace of any street which forms part of the Order limits without having to acquire any part of, or right in, the street. This exemption does not apply in the case of an underground structure (such as a basement or cellar). Where a street is occupied, any person affected is entitled to compensation (or cost-sharing where another statutory undertaker is involved).
- 5.3.12 Article 45 (use of airspace within the Order land): this article would allow GAL to enter into and use the airspace over any land within the Order land as is required for the construction, operation and maintenance of the authorised development or any other ancillary purpose, without acquiring a greater interest in the land. This right would avoid the need to obtain an airspace or over-sailing licence in the event that GAL occupies airspace above land that it does not own or have an interest in (for instance where the arm of a crane extends into the airspace of neighbouring land).

5.4 Powers to use and possess land temporarily and summary of relevant temporary powers

- 5.4.1 There will be situations where it will not be necessary for GAL to permanently acquire rights and interests, but instead be authorised to temporarily possess and use private roads and land.
- 5.4.2 Article 37 (temporary use of land for carrying out authorised development): this article would provide GAL with the power to enter onto, and temporarily occupy, land for the purposes of carrying out various temporary or permanent works on that land (such as removal of buildings and vegetation), without having to acquire a permanent interest in the land.
- 5.4.3 This article is subject to Article 38 (time limit for exercise of authority to temporarily use land for carrying out the authorised development). Article 38 would provide that GAL must exercise its power to temporarily use land or interests within seven years of the later of the end of the period for legal challenge in respect of the DCO under section 118 of the 2008 Act or the final determination of any legal challenge under that section.
- 5.4.4 Article 39 (temporary use of land for maintaining the authorised development): this article would provide that GAL may enter onto and temporarily occupy any of the Order land that is reasonably required to maintain the authorised development during the operational period and to construct such temporary works and buildings on the land, without having to acquire a permanent interest.

This article does not apply to any house, garden (belonging to a house) or any other occupied building. Under this article, GAL is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. GAL must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the satisfaction of the landowner.

5.5 Other rights and powers

- 5.5.1 Article 22 (discharge of water): this article would permit GAL to use any watercourse or any public sewer on any land within the Order limits in connection with the carrying out or maintenance of the Project. This may include laying down, taking up or altering pipes and making openings into and connections with the watercourse, public sewer or drain.
- 5.5.2 Consent from the owner of the relevant watercourse, public sewer or drain must be obtained before any water is discharged into it. GAL would have to ensure that as far as reasonably practicable, steps are taken to secure that water discharged into the watercourse, public sewer or drain is as free as possible from gravel, soil or other solid materials. This article would not authorise groundwater activity or water discharge activity for which an environmental permit is required.
- 5.5.3 Article 23 (protective work to buildings): this article enables GAL to carry out such protective works to buildings that may be affected by the authorised development as it considers necessary or expedient. Protective works may be carried out prior to commencing construction of the authorised development, during construction of the authorised development or up to five years after the development of the authorised development has been completed.
- 5.5.4 GAL may enter and survey any building for the purpose of determining how the functions under this article are to be exercised. Relevant notices must be served on the owners and occupiers of the building or land as set out in Article 23(5). An owner or occupier suffering loss would be entitled to compensation.
- 5.5.5 Article 24 (authority to survey and investigate the land): this article would permit GAL to enter any of the land within the Order limits for the purposes of surveys. Landowners are entitled to notice and compensation for loss or damage as a result of the survey works.
- 5.5.6 Article 25 (felling or lopping of trees and removal of hedgerows): this article would allow GAL to fell or lop any tree or shrub within, or overhanging, the Order limits. It would also enable GAL to remove hedgerows within the Order limits.
- 5.5.7 Article 40 (special category land): this article prevents the acquisition by GAL of special category land pursuant to its Order rights prior to GAL acquiring land to be laid out as replacement open space for this special category land and submitting an open space delivery plan to CBC for approval. This article requires GAL to implement the open space delivery plan as approved, ensuring that the replacement open space is laid out and maintained by GAL.
- 5.5.8 Article 41 (statutory undertakers): this article would allow GAL to acquire land or rights in land owned by statutory undertakers (such as telecommunications and electricity suppliers) within the Order land or to interfere with their apparatus by removing or repositioning the apparatus within the Order land. These powers would be subject to Schedule 9 (protective provisions), which sets

out controls and processes around the interference, removal, relocation, and/or alteration of a statutory undertaker's apparatus.

- 5.5.9 Article 42 (apparatus and rights of statutory undertakers in stopped-up streets): this article governs what happens to statutory undertakers' apparatus under streets that are stopped up by the DCO.

6 The Purpose and Case for Powers of Compulsory Acquisition

6.1 Introduction

6.1.1 As outlined in Section 5 of this Statement, GAL is seeking a number of powers as part of the Application, including powers to compulsorily acquire the land and rights in land and to take temporary possession over land that are necessary to enable it to construct and operate the Project. Such powers are necessary to ensure that the Project can be delivered.

6.1.2 Government has set out the circumstances and context in which compulsory acquisition and temporary possession powers can be granted. This section sets out those requirements and explains the justification for compulsory acquisition powers to be granted with references to the legislative requirements and guidance.

6.2 Conditions for authorising compulsory acquisition powers

6.2.1 Section 122 of the 2008 Act provides that a DCO may only include provision authorising the compulsory acquisition of land if the Secretary of State is satisfied that two conditions have been met:

- Section 122(2) Condition: that the land is required for the development to which the DCO relates, required to facilitate or is incidental to that development or is replacement land for commons, open spaces, etc.; and
- Section 122(3) Condition: that there is a compelling case in the public interest for the land to be acquired compulsorily.

6.2.2 Paragraphs 8 to 10 of the CA Guidance set out a number of general considerations that GAL must demonstrate to the satisfaction of the Secretary of State when justifying an order authorising compulsory acquisition. These are as follows:

- that all reasonable alternatives to compulsory acquisition have been explored;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
- that the applicant has a clear idea of how it intends to use the land which it is proposed to acquire;
- that there is a reasonable prospect of the requisite funds for the acquisition becoming available; and
- that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.

6.2.3 This section takes each condition in turn and explains how it has been satisfied in the context of the Project and why it is considered justified for the Secretary of State to grant the powers which have been applied for as part of the Application.

a) **The Section 122(2) Condition: land is required for the development or to facilitate or is incidental to that development or is replacement open space land**

- 6.2.4 As described, GAL already owns or controls the majority of the land and rights in land required for the Project and will continue to seek to acquire all land and rights it needs by voluntary agreement. GAL has undertaken statutory consultation and is pursuing engagement with all persons with an interest in the relevant land to try to avoid the need for compulsory acquisition. For further details, please see Section 8 below and the **Land Rights Tracker** (Doc Ref. 8.6).
- 6.2.5 In respect of the Section 122(2) Condition, the CA Guidance (at paragraph 11) states that the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land to be acquired is no more than is reasonably required for the purposes of the development.
- 6.2.6 All of the Order land is considered to be necessary to enable the delivery of the Project; however, due to the nature of the design process and the timing of the consenting process, GAL requires a degree of flexibility as to where certain sections of the proposals can be constructed within the defined limits of deviation which are provided for in the **Draft DCO** (Doc Ref. 2.1) and described in Section 5 of the **Planning Statement** [[APP-245](#)]. GAL is satisfied that all of the land included in the Order land is necessary to enable the delivery of the proposals and once detailed design has been undertaken GAL will ensure that only the land that is required for the development will be acquired.
- 6.2.7 The **BoR** (Doc Ref. 3.3) includes the size of each plot over which powers are being sought. The **Land Rights Tracker** (Doc Ref. 8.6) to this Statement explains how the proposals would affect plots owned by third parties which are to be acquired, or are subject to acquisition of rights and how and why each plot of land is needed for the proposals (i.e. the justification). It also shows the status of engagement with regard to private agreements with landowners.
- 6.2.8 In this context, all of the Order land is required for the development or is required to facilitate or is incidental to the development. Therefore, the Section 122(2) Condition is satisfied.

b) The Section 122(3) Condition: there is a compelling case in the public interest

- 6.2.9 In respect of the Section 122(3) condition, the CA Guidance (at paragraph 13) states that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the CA Guidance states that, in determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition.
- 6.2.10 Section 4 of this Statement summarises the need for and benefits of the Project. The explanation of the need for the Project and therefore the public interest in the Project being delivered is set out in full in the **Needs Case** [[APP-250](#)]. The delivery of this scale of infrastructure project also delivers significant benefits to the public living locally and more nationally. These benefits are described in the **Planning Statement** [[APP-245](#)].
- 6.2.11 As explained, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the Secretary of State when justifying that there is a compelling case in the public interest. The following sub-sections of this Statement take each of these in turn.
- 6.2.12 The considerations are as follows:

- that all reasonable alternatives to compulsory acquisition have been explored;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
- that the applicant has a clear idea of how it intends to use the land which it is proposed to acquire;
- that there is a reasonable prospect of the requisite funds for the acquisition becoming available; and
- that the purposes for which compulsory acquisition of land powers are included in the **Draft DCO** (Doc Ref. 2.1) are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.

i. Section 122(3) Condition: Consideration of alternatives

Alternative to development proposals

- 6.2.13 The need for increased capacity in the aviation sector is well established within the Government's policy on airports and aviation. The Airports Nation Policy Statement is clear that the aviation sector is important to the UK economy and identifies the need for new airport capacity in the south-east. As part of the airport planning process, GAL regularly publishes a master plan, setting out long term plans for airport growth and development.
- 6.2.14 As a result of increasing demand, the 2019 Master Plan (GAL, 2019) (Ref 1.11) considered the following:
- Scenario 1: where Gatwick remains a single-runway operation using the existing main runway. This scenario would use technology to increase the capacity of the main runway, leading to incremental growth through more efficient operations;
 - Scenario 2: where the existing northern runway is routinely used together with the main runway; and
 - Scenario 3: where GAL continues to safeguard for an additional runway to the south.
- 6.2.15 A "do minimum" option (Scenario 1) was considered to restrict future growth and Gatwick's ability to contribute to meeting future demand for increased aviation capacity. In the busy summer months (July, August and September), Gatwick is often already operating at, or close to, its peak capacity. As set out in **ES Chapter 4: Existing Site and Operation** [APP-029], with the future baseline, passenger throughput would increase to approximately 67.2 mppa by 2047. This Scenario 1 would not allow Gatwick to maintain best use of its existing runways, as only one runway would be operational at any time.
- 6.2.16 GAL is not actively pursuing Scenario 3 in light of the Government's support for the third runway at Heathrow, but considers that it is in the national interest for the land to continue to be safeguarded to allow for a new runway to be constructed to the south of the airport, to allow for the possibility that it is required in the future.
- 6.2.17 GAL confirmed it would pursue a dual runway option Scenario 2 (use of the northern runway alongside the main runway), which would deliver the following operational, economic, social and environmental benefits:
- aligns with Government policy of making best use of existing runways at all UK airports;

- in comparison to the existing situation and Scenario 1, provides greater UK point-to-point airport capacity to assist in delivering unmet Department for Transport forecasted aviation demand to 2050, whilst complementing the existing UK hub capacity provided at Heathrow (and in view of any additional capacity potentially introduced by the proposed third runway);
- provides an increase in flights, improved connectivity, increased employment and economic benefits to the local area with a much reduced scale of environmental impact compared to that arising from an additional new runway (Scenario 3), such as on noise, air quality, greenhouse gases and other impacts on biodiversity;
- creates economic benefits to the national, regional, and London economies, including through supporting inward investment for business travellers, and tourism;
- provides additional operational resilience for the airport with the flexibility to routinely use two runways;
- minimises growth outside of the airport boundary;
- does not prejudice the long-term safeguarding of the land to the south of the airport for a future additional runway; and
- delivers significant local economic benefits, including further employment and training opportunities for local people, supply chain opportunities for local businesses, increased local retail and leisure expenditure, and other economic stimuli to the local area.

6.2.18 Overall, it was considered that Scenario 2 offered the optimum approach to making best use of existing runways and increasing UK airport capacity.

6.2.19 GAL also considered several alternatives to the layout of the Project including locations of runways, taxiways, aircraft holding areas, terminals, piers, hangars, hotels, offices and car parks, foul water, surface water drainage, flood risk mitigation, waste management facilities, surface access, rail access, inter terminal transit system and construction compounds. A thorough review of design and layout options was undertaken through an iterative design process which included consultation and engagement with the public and relevant public authorities.

6.2.20 A full description of the alternatives that have been considered is set out in **ES Chapter 3: Alternatives Considered** [[APP-028](#)]. Overall, GAL considers that the selected options offer the most sustainable and practical approach to adding UK airport capacity, delivering significant economic benefit to the region and providing greater operational resilience both at Gatwick and in the London system.

Alternatives to compulsory acquisition

6.2.21 In order to construct, operate and maintain the Project, land and rights in the ownership of parties other than GAL would need to be acquired. Given the location and the nature of the Site, acquisition and/or use of third-party land cannot be avoided.

6.2.22 GAL already owns or controls the majority of the land required for the Project, it will continue to seek to acquire all land and rights it needs by voluntary agreement. GAL has undertaken formal consultation and is pursuing engagement with all persons with an interest in the relevant land in order to try to avoid the need for compulsory acquisition. Details of negotiations with landowners is shown in the **Land Rights Tacker** (Doc Ref. 8.6).

6.2.23 Notwithstanding its preference to acquire all land by agreement, GAL still seeks to acquire land and rights compulsorily through the **Draft DCO** (Doc Ref. 2.1) in circumstances where the voluntary acquisition of land or rights is ultimately unsuccessful.

ii. Section 122(3) Condition: the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, necessary and proportionate

Legitimate Purpose

- 6.2.24 The need for the Project is explained in the **Needs Case** [APP-250] and summarised at Section 4 above. Compulsory acquisition and temporary possession powers over the Order land are necessary to enable GAL to meet that need and deliver the Project.
- 6.2.25 The need demonstrates that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose. The purpose is to deliver additional capacity to the UK aviation sector which is supported through policy.

Necessary

- 6.2.26 Without the compulsory acquisition and temporary possession of the necessary interests in the Order land, the delivery of the Project cannot be guaranteed.
- 6.2.27 The proposed interference with the rights of those with an interest in the land is therefore necessary to deliver the benefit of the Project, although GAL will seek to acquire land by agreement only relying on the use of powers where agreement cannot be reached.

Proportionate

- 6.2.28 Steps have been taken to ensure that the land and interests proposed to be acquired are proportionate. Noting that GAL owns the freehold of most of the land required, GAL has sought to take powers of rights over land rather than the compulsory acquisition of the freehold in certain instances (as shown shaded blue on the **Land Plans** (Doc Ref. 4.2)) and has not sought powers over certain plots where it would not be proportionate to do so (as shown shaded grey on the **Land Plans** (Doc Ref. 4.2))
- 6.2.29 For example, for certain plots GAL has sufficient certainty that the land is not required permanently and has therefore only sought powers to compulsorily acquire permanent rights and temporary possession powers. This is mainly the case for land which is required for planting and GAL needs to obtain rights to maintain the planting but does not need to hold the freehold to do so.
- 6.2.30 Compensation is payable for the compulsory acquisition of land or rights under the foregoing powers. Compensation is also payable for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is planned to be dealt with by private agreement, but if this is not possible will be determined by the Lands Chamber of the Upper Tribunal.
- 6.2.31 GAL has only proposed a level and scale of interference with the rights of those with an interest in the land where it is proportionate to the nature and scale of the Project.

iii. Section 122(3) Condition: Clear idea of intentions of how land proposed to be acquired will be used

- 6.2.32 GAL has a clear idea of how the Order land is intended to be used to deliver the Project. The **Land Rights Tacker** (Doc Ref. 8.6) sets out the particular purposes for which each plot of land is

proposed to be acquired. The table in the **Land Rights Tacker** (Doc Ref. 8.6) demonstrates, as advocated by the CA Guidance (at paragraph 9), that GAL has “*a clear idea of how [it intends] to use the land which [it proposes] to acquire.*”

- 6.2.33 GAL has included within the Order land no more land than is reasonably required for the purposes described in the table in the **Land Rights Tacker** (Doc Ref. 8.6) such that its proposed use of land proposed to be acquired, for the purpose of delivering the proposals, is proportionate and justifiable.

iv. Section 122(3) Condition: Availability of funds for compensation

- 6.2.34 In section 9, the CA Guidance states that the applicant will “*be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available*”.
- 6.2.35 The **Funding Statement** [[APP-009](#)] which accompanies the Application sets out how the Project would be funded. It demonstrates that there is a reasonable prospect of the requisite funds being available to pay any compensation arising from the exercise of the compulsory acquisition and temporary use powers and, indeed, to construct the Project.

v. Section 122(3) Condition: Justification for interfering with the human rights of those with an interest in the land affected

- 6.2.36 The CA Guidance states that the Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (paragraph 10).
- 6.2.37 The Human Rights Act 1998 (Ref 1.12) incorporated into domestic law the European Convention on Human Rights (the “Convention”). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 6.2.38 The articles of the Convention that are relevant when determining whether a DCO which includes powers of compulsory acquisition should be made are:
- Article 1 of the First Protocol to the Convention: this protects the right of everyone to a peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles or to secure the payment of taxes or other contributions or penalties.
 - Article 6: this entitles those affected by powers sought for the project to a fair and public hearing of any relevant objection they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the consultation process.
 - Article 8: this protects private and family life, home and correspondence. No public authority can interfere with these rights except such as in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.

- 6.2.39 In preparing the Application, GAL has carefully considered the balance to be struck between individual rights and the wider public interest. To the extent that the delivery of the Project would

affect individuals' rights, for the reasons summarised in this section, the proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest.

- 6.2.40 The Project has the potential to infringe the human rights of persons who own property within the Order land or have rights over the land within the Order land. There will however be no violation of those rights where it has been demonstrated that the proposed interference is 'in the public interest' and lawful.
- 6.2.41 Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the Compensation Code. All of those whose Convention rights would be affected by the DCO will have an opportunity to object to the grant of compulsory acquisition powers in the DCO, and to have their objection considered at a fair and public hearing.
- 6.2.42 There was opportunity to make representations regarding the proposed Application prior to its submission. In accordance with Part 5 of the 2008 Act, GAL consulted persons set out in the categories contained in section 44 of the 2008 Act. This included: persons with an interest in the Order land; persons who have the power to sell and convey or release the Order land; and those who would or might be entitled to make a claim under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, under Part 1 of the Land Compensation Act 1973 in respect of depreciation of land value by physical factors or under section 152(3) of the Act in respect of compensation where there is no right to claim in nuisance. The extent of the consultation which took place and how it was taken into account by GAL in preparing the Application is set out in the **Consultation Report** [APP-218], with the approach to the identification of land interests detailed in Section 7 below.
- 6.2.43 In addition to the publicity and consultation in relation to the Application, all the known owners and occupiers of land within the Order land have been contacted individually outside of the formal consultation periods to offer the opportunity to discuss any impact the DCO may have on their individual interest.
- 6.2.44 Furthermore, representations can be made by way of representations in respect of the Application in response to any notice given under section 56 of the 2008 Act (notifying persons of accepted application), the examination of the Application by the examining authority and any written representations procedure that the examining authority decides to adopt in connection with the Application. Section 92 of the 2008 Act provides that, where a DCO application includes a compulsory acquisition request, affected persons have an opportunity to request that a compulsory acquisition hearing be held and to make oral representations about the compulsory acquisition request at such hearing. In those circumstances, the requirements of Article 6 are satisfied.
- 6.2.45 With regard to Article 1, First Protocol and Article 8, GAL has weighed any interference with these Convention rights as a result of including compulsory powers within the **Draft DCO** (Doc Ref. 2.1) with the potential public benefits if development consent is granted. First, GAL considers that there would be very significant public benefit arising from the grant of development consent. That benefit can only be realised if the DCO includes the grant of powers of compulsory acquisition and temporary use. GAL has concluded that the significant public benefits outweigh the effects of the provisions in the **Draft DCO** (Doc Ref. 2.1) upon persons who own property in the Order land such that there would not be a disproportionate interference with their Article 8 and Article 1, First Protocol rights. The need for the Project is clear and is of national importance. Second, those

affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and GAL has the resources to provide such compensation.

- 6.2.46 For these reasons, GAL considers that the inclusion of powers of compulsory acquisition would not breach the Convention rights of those whose land may be affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

c. Compelling case in the public interest

- 6.2.47 GAL is satisfied that the Section 122(3) Condition is met and that there is a compelling case in the public interest for compulsory acquisition.

- 6.2.48 The need for and the benefits of the Project are set out in Section 4 of this Statement and in the other application documents, including the **Needs Case** [\[APP-250\]](#) and the **Planning Statement** [\[APP-245\]](#) which demonstrates the very strong and compelling case in the public interest for the Project to be delivered. The above clearly demonstrates that there would be substantial public benefits arising from the implementation of the Project.

7 Identification of Land Interests

7.1 Introduction

- 7.1.1 Prior to the start of the first formal consultation a diligent land referencing process was completed to identify relevant persons with an interest in land identified at the time as being required for the Project.

- 7.1.2 Under section 44 of the 2008 Act, there are three categories of persons who must be consulted by GAL at the pre-application stage under section 42(1)(d):

- Category 1: those persons who GAL, after making diligent inquiry, knows are owners, lessees, tenants or occupiers of the land.
- Category 2: those persons who GAL, after making diligent inquiry, knows are interested in the land or have the power to sell and convey the land or to release the land.
- Category 3: those persons who GAL thinks that, if the order sought by the proposed Application were to be made and fully implemented, would or might be entitled as a result of the implementation of the order to make a relevant claim (as defined under section 44(4) and (6)) arising out of the proposed Application.

- 7.1.3 A list of section 42 consultees can be found in Appendix B.18 to the Consultation Report in **Consultation Report Appendices – Part B** [\[APP-241\]](#).

- 7.1.4 **Table 7.1.1** below details the land referencing activities and timings of those activities.

Table 7.1.1: Land Referencing Activities and Timings

| Date | Land Referencing Activity |
|--------------------------------|--|
| March 2019 | Setting the Land Referencing Limits |
| March 2019 – October 2019 | Desktop referencing |
| November 2019 – March 2020 | Contact and detailed land referencing |
| March 2020 – December 2020 | Project Pause due to COVID |
| January 2021 – March 2021 | Data Refresh – HMLR, Utilities and Council |
| May 2021 | Confirmation Schedules Issued |
| September 2021 – December 2021 | Section 42 Consultation |
| January 2022 – December 2022 | Data Refreshes and Record Maintenance |
| June 2022 – July 2022 | Targeted Consultation |
| January 2023 | HMLR Refresh |
| March 2023 | Confirmation Schedules Issued |
| January 2023 – May 2023 | Book of Reference Preparation |
| June 2023 | Book of Reference Completed |

7.2 Setting the Land Referencing Limits

- 7.2.1 The "land referencing limits" define the extent of the land which may be affected by the Project and the interests which must be referenced and persons who must be consulted as part of the pre-application process under the 2008 Act.
- 7.2.2 The land referencing limits include all land within the Order limits for the Project and all land within the Category 3 Boundary. The land referencing limits were reviewed and amended in advance of each stage of formal consultation and prior to the submission of this Application to reflect any changes in the proposed Order limits and evolutions in the proposals and designs. Over time the Order limits reduced in extent due to design and land requirements being refined during the planning process, which resulted in more people being consulted in the earlier stages of the Project.
- 7.2.3 The Category 3 Boundary represents a precautionary approach to identify all those persons who GAL thinks that, if the Project were to be delivered, would or might be entitled to make a claim under section 10 of the Compulsory Purchase Act 1965 (Ref 1.13), Part 1 of the Land

Compensation Act 1973 (Ref 1.14) (a "relevant claim") and/or section 152(3) of the 2008 Act. The Category 3 Boundary has been, therefore, identified on a conservative basis.

- 7.2.4 GAL commissioned professional environmental consultants to develop the understanding of any potential effects of the Project in construction and operation which could give rise to a relevant claim. GAL also sought the advice of property surveyors as to the level of noise contour that an affected party might be able to make a relevant claim relating to the devaluation of their property owing to the effects of the Project.
- 7.2.5 It was decided to use a combination of an air noise contour, air noise change analysis, and distance from the affected sections on the roads to inform the Category 3 referencing boundary. This would allow for a sufficiently wide land referencing zone to incorporate those parties who might be entitled to make a relevant claim in relation to effects from noise, as well as vibration, smell, fumes, smoke, artificial lighting and discharge, and those who could make a claim under section 10 of the Compulsory Purchase Act 1965. Within this zone the land referencing team conducted diligent inquiry to identify potentially affected parties prior to consultation.
- 7.2.6 The noise contour chosen was the 57 Leq daytime air noise contour. This is significantly larger than the area where significant noise effects occur (63Leq) and the area which emerging Government policy provides that an airport should provide a noise insulation scheme¹. Further, regard was given to where noise would change by the 2-3dB Leq band or more. There is a small area of Povey Cross outside of the 57Leq contour, which may experience this level of noise increase and has been included for this reason.
- 7.2.7 To further ensure that anyone entitled to make a relevant claim was included in the Category 3 Boundary those up to 250m from the highway developments were included. The Category 3 Boundary has been therefore identified on a very conservative basis.

[With regards to the noise assessment, GAL commissioned professional Desktop referencing](#)

- 7.2.8 Those persons who would have a Category 1 or Category 2 interest in the land considered necessary to deliver the project were identified as follows:
- 7.2.9 To identify relevant land interests within the land referencing limits a search was undertaken of HM Land Registry ("HMLR") National Polygon Service data and all affected land titles extracted. A request was then made to HMLR for the proprietor data spreadsheet of those titles identified to provide the associated tenure, names, and addresses with the names and addresses of any mortgagees for these proprietors.
- 7.2.10 The HMLR data was checked and cleansed to verify land title location and extents and validate addresses to Royal Mail. Company names and registered addresses were checked using the UK Companies House website / foreign Companies House websites and Charity names and registered addresses were checked using the Charities Commission website. For any unregistered organisations, desktop research was used to identify the most appropriate address to send correspondence to.

¹¹ See Aviation 2050 – The Future of UK Aviation – A Consultation, published December 2018 by the Department for Transport (Ref 1.15). Please also see the Policy Paper on Overarching aviation noise policy published 27 March 2023 (Ref 1.16) which highlighted the Government's plan to publish a formal noise policy paper later in 2023.

7.2.11 All unregistered land within the land referencing limits was parcelled up and populated with an unknown freeholder, occupier interest & unknown rights interest. Desktop research including TracelQ was used to identify any occupying interests that were missing from the relevant parcels. Any assumed owners were also added to those unregistered parcels. These interests include adjacent landowners, occupiers, frontage (ad medium filum) interests, watercourse interests, railway interests and rights of access interests.

Contact and detailed land referencing

7.2.12 Land Interest Questionnaires ("LIQ") with accompanying plans were issued to all identified interests within the land referencing limits, requesting that the landowners, occupiers and other interested parties to clarify contact information and provide confirmation of ownership including extent, occupiers, tenants, and any other party with an interest in the land such as rights of way or option agreements. This information could be provided through an online form, email or via the post. Responses were used to validate and update the records.

7.2.13 LIQ responses were logged in the land referencing database and any additional information added to the database. Any additional interests identified within an LIQ response who had not received an LIQ were logged and issued with an LIQ and plan. If any information received on the LIQ was missing or ambiguous, contact was to be made with the interest to confirm the facts and detailed either via email or phone call.

7.2.14 To encourage responses, LIQ reminder letters were sent to all potentially affected parties that did not return their LIQs by the deadline for responses stated on the LIQ cover letter. If no response to the LIQ has been obtained, three further attempts to obtain this information were conducted by either further letters, phone calls, emails or site visits.

7.2.15 Where landowners and occupiers remained unknown, site notices were erected in a suitable visible location (for example on gateways or nearby telegraph poles), monitored weekly for six weeks and replaced if damaged or removed. The site notices gave notification of the Project the intention for that plot of land to be used and invited anyone with knowledge of the land interests to provide that information through the contact details provided. For any forthcoming interests, the land referencing database was updated and an LIQ and plan were issued to confirm their interest and any further pertinent information.

7.2.16 GAL has identified statutory undertakers who have an interest in land required for the proposals or have, or may have, a right to keep equipment and apparatus (in connection with their undertaking) on, in or over the land required for the proposals. GAL has identified these potentially affected parties by way of desktop searches including a utilities search undertaken by Atkins and through the process of reviewing Land Registry titles as previously described. GAL has undertaken and liaised with the relevant statutory undertakers in order to verify information, as well as commencing technical engagement with statutory undertakers where more detailed design exists through submission of details for C3 estimates from undertakers. Statutory undertakers were also included as part of the statutory consultations.

7.2.17 The **Consultation Report** [\[APP-218\]](#) describes GAL's approach to consultation in full: the approach to statutory consultation is set out in section 4 and a description of the Autumn 2021 Consultation and the Summer 2022 Consultation is in sections 5 and 6 respectively.

8 Engagement and negotiations

8.1 Approach to acquiring land and rights in land by agreement

- 8.1.1 GAL's acquisition strategy has been informed by the CA Guidance, which states that applicants seeking compulsory acquisition or temporary possession powers should seek to acquire land by agreement wherever practicable. GAL is committed to seeking to acquire all interests in land necessary for the development through private agreement with landowners and occupiers and is continuing to negotiate in pursuit of that objective. These negotiations are ongoing. The current position on the negotiations with landowners is set out in detail in the **Land Rights Tacker** (Doc Ref. 8.6).
- 8.1.2 In the event that negotiations with particular landowners, occupiers or statutory undertakers are unsuccessful, GAL requires the power to compulsorily acquire the remaining interests, as further detailed in Section 5 of this Statement. This approach is in accordance with paragraph 25 of the CA Guidance.
- 8.1.3 GAL has taken the cautious approach of seeking powers of compulsory acquisition (or rights of use) in respect of all parcels of land required for the Project, even where it already holds an interest in the land which is subject to works (with the exception of Crown land – see Section 10.2 for details). GAL has taken this approach to ensure that it has the right to acquire the interests it needs in the whole of the Order land – even where an unidentified owner later asserts an interest in land which GAL believes it owns.

8.2 Status of Negotiations

- 8.2.1 GAL has undertaken formal consultation since 2018 to ensure the local community has an opportunity to understand and provide feedback on the Project proposals. As part of this, GAL has consulted with all persons who hold a land interest as defined in the categories in section 44 of the 2008 Act. As the Project has evolved in response to feedback during consultation and operational requirements, the number of affected parties has varied, as have the issues and identities of the affected parties.
- 8.2.2 In addition to the formal stages of consultation, GAL has engaged directly with individual landowners, occupiers and those with an interest in the affected land through targeted engagement and negotiations. This engagement has informed GAL's understanding of the direct and indirect impacts on landowners and occupiers. GAL has entered into commercial negotiations to seek private agreements in respect of rights required to ensure the implementation of the Project, and discussions are ongoing regarding option agreements.
- 8.2.3 The **Land Rights Tacker** (Doc Ref. 8.6) describes the status of negotiations with those who own land proposed to be acquired.
- 8.2.4 GAL has engaged with the relevant statutory undertakers and has had regard to any feedback received and the location of any assets or equipment in the development of designs and proposals. Discussions with the relevant statutory undertakers will continue in relation to rights which are to be retained and which are to be extinguished or suspended, as well as in relation to the negotiation of any necessary protective provisions. GAL also continues to engage at a technical level with C3 estimates currently being received from statutory undertakers.

- 8.2.5 The interests held by each statutory undertaker identified by GAL as having a right to keep or access apparatus within the Order land are identified in the **Land Rights Tacker** (Doc Ref. 8.6) . Adequate protection for the statutory undertakers is included within protective provisions in the **Draft DCO** (Doc Ref. 2.1). GAL therefore considers that the statutory undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition of land or rights over land or the powers of temporary possession.

9 Related applications and consents

- 9.1.1 The DCO will be the principal consent required to allow the Project to proceed. In addition, there are other consents, licences and permissions that GAL will require from various regulators to allow certain elements of the development to proceed.
- 9.1.2 GAL is in discussion with all relevant bodies and is not aware of anything that is likely to prevent the grant of such additional consents, licences or permissions. GAL is therefore aware of no obvious impediments to the implementation of the Project.
- 9.1.3 These additional consents are listed in the **List of Other Consents and Licences** [\[REP3-062\]](#).

10 Special considerations affecting land

10.1 Acquisition of open space land / rights over open space land

- 10.1.1 There is provision in the **Draft DCO** (Doc Ref. 2.1) for:
- the permanent acquisition of 1.16 ha of open space land split across three locations: at Riverside Garden Park (1.01 ha), A23 Brighton Road (0.02 ha) and Church Meadows (0.13 ha); and
 - the acquisition of rights over 0.84 ha of open space land split across the same three locations: at Riverside Garden Park (0.47 ha), A23 Brighton Road (0.01 ha) and Church Meadows (0.36 ha)
- 10.1.2 These are shown in the **BoR** (Doc Ref. 3.3) and on the **Special Category Land Plans** [\[REP3-010\]](#).
- 10.1.3 Section 131 of the 2008 Act applies to the compulsory acquisition of any land forming part of a common, open space or fuel or field garden allotment. Section 132 of the 2008 Act applies to the compulsory acquisition of any rights over land forming part of a common, open space or fuel or field garden allotment.
- 10.1.4 Both sections make provision for special parliamentary procedure ("SPP") to apply where a DCO authorises the compulsory acquisition of such land or rights over such land unless the Secretary of State is satisfied that one of the following circumstances applies:
- replacement land has been or will be given in exchange for the order land/right and has been or will be vested in the person in whom the order land was/is vested and subject to the same rights, trusts and incidents as attach to the order land (section 131(4) / section 132(4) of the 2008 Act);

- the order land does not exceed 200 square metres or the order land/right is required in connection with the widening or drainage of an existing highway and the giving in exchange of other land is unnecessary, whether in the interests of the persons entitled to rights of common or other rights, or in the interests of the public (section 131(5) / section 132(5) of the 2008 Act);
- for order land which is open space, if there is no suitable land available to be given in exchange (or any suitable land is available only at prohibitive cost) and it is strongly in the public interest for the development to begin sooner than is likely to be possible if the order were subject to SPP (section 131(4A) / section 132(4A) of the 2008 Act);
- for order land which is open space, if the order land/right is being acquired for a temporary (although possibly long-lived) purpose (section 131(4B) / section 132(4B) of the 2008 Act); or
- in respect of an order right, if the order land when burdened with this right will be no less advantageous than it was before to the persons in whom it is vested, other persons entitled to common or other rights over it, and the public (section 132(3) of the 2008 Act).

10.1.5 In this case SPP is not required in respect of the permanent acquisition of the plots of open space land specified in Part 1 of Schedule 10 of the **Draft DCO** (Doc Ref. 2.1) and shown on the **Special Category Land Plans** [\[REP3-010\]](#) because the land is all required in connection with the widening or drainage of an existing highway. The giving in exchange of other land is unnecessary because:

- it has been communicated to GAL in its discussions with the local authorities that no authority wishes to be vested with the replacement land and they will be satisfied if the land is to vest in (or where already owned by GAL, remain vested in) GAL provided that GAL lays out and maintains suitable replacement open space for the benefit of the public; and
- article 40 of the **Draft DCO** (Doc Ref. 2.1) continues to secure the laying out of replacement open space by GAL (albeit this is not "replacement land" under section 131(4) of the 2008 Act because it is not to be vested in the entities from which the undertaker is acquiring special category land) and this replacement open space is a suitable replacement for the special category land to be acquired for the benefit of the public, as described in section 4 of the Applicant's **Note on Acquisition of Special Category Land and Provision of Replacement Land** [\[REP4-041\]](#).

10.1.6 The replacement open space is 1.95 ha split across two locations: Car Park B (1.43 ha) and west of Church Meadows (0.52 ha). These plots are shown in the **BoR** (Doc Ref. 3.3) and on the **Special Category Land Plans** [\[REP3-010\]](#) .

10.1.7 The replacement open space will be secured by compulsory acquisition under the 2008 Act as a necessary component of the Project to be delivered (where not already owned by GAL and in default of a voluntary acquisition)

10.1.8 Further, SPP is not required in respect of the acquisition of rights over the plots of open space land specified in Part 3 of Schedule 13 of the **Draft DCO** (Doc Ref. 2.1) and shown on the **Special Category Land Plans** [\[REP3-010\]](#) because:

- in respect of plots 1/050 and 1/052 (south of A23 Brighton Road), rights are being acquired over a small area of the River Mole and its immediately adjacent river bank to support works to Longbridge Roundabout which will be temporary, and thus section 132(4B) of the 2008 Act is satisfied;

- in respect of plots 1/036, 1/093, 1/164, 1/212, 1/242A, 1/226 (north of A23 London Road), rights are being acquired over a thin strip of the southern edge of Riverside Garden Park to facilitate works to the adjacent highway which will be temporary, and thus section 132(4B) of the 2008 Act is satisfied; and
- in respect of plot 1/007 (Church Meadows), rights are being acquired over the edges of a field to facilitate highway works to the A23 Brighton Road and the construction and maintenance of a new pedestrian bridge to the area of replacement open space land to the west. Rights being acquired for construction purposes will only be used temporarily, and thus section 132(4B) of the 2008 Act is satisfied. Rights being acquired to subsequently maintain the bridge will be used longer term but will, when imposed on the land, leave it no less advantageous to the person in whom it is vested (that being Reigate and Banstead Borough Council), any other persons entitled to rights of common or other rights (if any) and the public, as it will be useable in the same manner as presently, and thus section 132(3) of the 2008 Act is satisfied.

a. Open space land subject to permanent compulsory acquisition

10.1.9 The following areas of open space land are required to be permanently acquired for the delivery of the Project:

1.01 ha at Riverside Garden Park

10.1.10 This area is a thin strip located immediately to the north of the A23 London Road and along the southern fringe of Riverside Garden Park. The area features woodland and highways planting. This area has been calculated on a precautionary basis as it includes land currently within the highway embankment where there would be a loss of mature vegetation adjacent to and along the existing highway. The area of land affected within the park, not including land within the highways boundaries, comprises a smaller area of approximately 0.34ha. This is well used by the local community and visitors for walking and dog walking.

10.1.11 This area is required for the Project to deliver the highway improvement works to the A23 London Road.

0.02 ha south of Brighton Road

10.1.12 This small area is located at the confluence of the River Mole and Gatwick Stream immediately to the south of the A23 Brighton Road near to Longbridge Roundabout. It features a woodland. It can only be accessed using a pedestrian gate located next to the A23 Brighton Road and by negotiating a steep earth bank.

10.1.13 This area is required for the Project to deliver the highway improvement works to the Longbridge Roundabout junction.

0.13 ha of Church Meadows

10.1.14 This area is adjacent to St Bartholomew's Church and to the south of the former Horley Anderson Centre and Playing Fields. It is located immediately to the north of the A23 Brighton Road and to the east of the River Mole. It features an open woodland and a grassed area is often used for walking and dog walking.

10.1.15 This area is required for the Project to deliver the highway improvement works to the Longbridge Roundabout junction.

b. Replacement open space

- 10.1.16 The following areas of land would be developed as replacement open space as part of the Project and delivered as such in accordance with the open space delivery plan to be submitted to, and approved in writing by, CBC under Article 40 of the **Draft DCO** (Doc Ref. 2.1). Details of the proposed landscaping and planting for each area is set out in the **ES Appendix 8.8.1: Outline Landscape and Ecology Management Plan** (Doc Ref. 5.3) and will be secured by the submission and approval of detailed Landscape and Ecology Management Plans under Requirement 8.

0.52 ha west of Church Meadows

- 10.1.17 A pasture located to the west of Church Meadows and the River Mole would be developed to provide replacement open space. A pedestrian bridge over the River Mole would be provided to allow access from Church Meadows. Access will also be provided in the south western corner of the area, accessed from the shared use pedestrian and cycle route that has recently been constructed in this location.

1.43 ha at Car Park B

- 10.1.18 The existing Car Park B, which includes land both to the north and south of the A23 London Road, would be developed to provide replacement open space. The replacement open space would be provided in a similar nature to the existing Riverside Garden Park.
- 10.1.19 A new additional pedestrian route linking Riverside Garden Park to Car Park B and to the Sussex Border Path would be provided, located to the west of the railway line north of the A23 London Road. Direct access to the open space would be provided from the Sussex Border Path to the northern part of the replacement open space and from the NCR21 to the southern part.

c. Adequacy of the Replacement Open Space

- 10.1.20 The proposed areas of the replacement open space significantly exceed the area of public open space permanently lost. In total, approximately 1.95 ha of replacement land would be provided compared to a loss of approximately 1.16 ha. This provides an increase of approximately 0.79 ha (68%) of open space available to local communities.
- 10.1.21 The areas of replacement open space provided greatly exceed in quantity the land permanently acquired from each of Church Meadows and Riverside Garden Park (including the small parcel south of the A23 Brighton Road) individually. At Riverside Garden Park (including the aforementioned small parcel) a loss of 1.03 ha is replaced by 1.43 ha. In Church Meadows a loss of 0.13 ha is replaced by 0.52 ha.
- 10.1.22 The proposed locations of the areas of replacement open space are the closest available parcels of land to those areas that would be permanently lost. The proposed replacement open space considers access and connectivity with the existing areas of open space with pedestrian connections and NCR21.
- 10.1.23 The proposals include the provision of a pedestrian and cyclist ramp close to the River Mole to provide a new access into the northern part of Riverside Garden Park. This would enable the public to enter and enjoy the full extent of the open space rather than having to follow the existing narrow footway alongside the A23 London Road before entering the park at the existing access further south.

- 10.1.24 The areas of replacement open space would be available to the communities that the existing open space currently serves, including local residents, airport staff and visitors in locations as close as possible to the current provision.
- 10.1.25 The replacement open space at Car Park B would provide large areas of accessible open space providing enhanced access to the Sussex Border Path and would include areas of woodland planting, similar to the nature of the wooded southern edge of Riverside Garden Park that would be permanently lost, as well as additional elements that reflect the nature and quality of the wider area of Riverside Garden Park including scrub and ground cover planting and open grassed areas for recreational use. As the landscaping develops over time, this would provide areas of open space that would be similar in nature to the central areas of Riverside Garden Park and more accessible and usable than much of the area lost, the majority of which falls within the highways boundary and contains highways ditches and wooded embankments together with an isolated piece of land that can only be accessed via a steep bank from the A23 Brighton Road.
- 10.1.26 The replacement open space at Church Meadows is currently used to support a livestock-based farming enterprise. The current grassland use of the replacement land would enable the early establishment of a usable and attractive space, similar to the existing area of Church Meadows. The implementation of planting proposals in accordance with the principles set out in the **ES Appendix 8.8.1: Outline Landscape and Ecology Management Plan** (Doc Ref. 5.3) would further enhance the quality of the replacement open space as the landscaping develops.
- 10.1.27 The replacement open space is therefore land which is not less in area than the open space land to be acquired and is no less advantageous to the public.

d. Open space land over which rights will be acquired

- 10.1.28 The following areas of open space land are required to be subject to the acquisition of rights for the delivery of the Project:

0.47 ha at Riverside Garden Park

- 10.1.29 This area is a thin strip located along the southern edge of Riverside Garden Park, featuring woodland and vegetation. It sits to the north of the strip of land being permanently acquired. It is well used by the local community and visitors for walking and dog walking.
- 10.1.30 Rights are required over this area for the Project to facilitate the delivery of the highway improvement works to the A23 London Road. The rights are only required during this period of construction and therefore the rights are "*being acquired for a temporary (although possibly long-lived) purpose*" and thereby satisfy section 132(4B) of the 2008 Act. As this provision applies, no replacement land is required for the land subject to these rights, nor is special parliamentary procedure necessary.

0.01 ha south of Brighton Road

- 10.1.31 This small area is located to the south of the parcel of land being permanently acquired south of the A23 Brighton Road near to Longbridge Roundabout. It features a woodland and the River Mole itself. It faces the same access difficulties as the parcel of land to be permanently acquired.
- 10.1.32 This area is required for the Project to facilitate the delivery of the highway improvement works to the Longbridge Roundabout junction. Akin to the above, the rights are only required during this period of construction and therefore the rights are "*being acquired for a temporary (although*

possibly long-lived) purpose" and thereby satisfy section 132(4B) of the 2008 Act. As this provision applies, no replacement land is required for the land subject to these rights, nor is special parliamentary procedure necessary.

0.36 ha of Church Meadows

- 10.1.33 This area is adjacent to St Bartholomew's Church and to the south of the former Horley Anderson Centre and Playing Fields. It is located immediately to the north of the A23 Brighton Road and to the east of the River Mole. It features an open woodland and a grassed area is often used for walking and dog walking.
- 10.1.34 This area is required for the Project to deliver the highway improvement works to the Longbridge Roundabout junction and to construct and maintain the new pedestrian bridge being built over the River Mole to provide additional access to the replacement land to be provided west of the River Mole. Rights are required to be obtained along the length of the River Mole in this area as the final location of the pedestrian bridge will be finalised during detailed design.
- 10.1.35 In respect of rights being acquired to facilitate the highway improvement works and the construction of the pedestrian bridge, akin to the above these are only required during the respective periods of construction of these works. These rights are *"being acquired for a temporary (although possibly long-lived) purpose"* and thereby satisfy section 132(4B) of the 2008 Act. As this provision applies, no replacement land is required for the land subject to these rights, nor is special parliamentary procedure necessary.
- 10.1.36 In respect of rights being acquired to subsequently maintain the pedestrian bridge longer term, these rights will not render the land in question any less advantageous than it currently is. The rights would allow the undertaker (or a person under its direction) to enter onto the land periodically to inspect and, if necessary, repair the bridge. This would not prevent the land from being used for recreation by members of the public in the manner it currently is. Therefore, the land, *"when burdened with the order right, will be no less advantageous than it was before to"* the persons in whom it is vested (i.e. Reigate and Banstead Borough Council), other persons entitled to rights and the public, in accordance with section 132(3) of the 2008 Act. No replacement land is needed in respect of this land, nor is special parliamentary procedure necessary.

10.2 Land and Interests Owned by the Crown

- 10.2.1 There is provision in the **Draft DCO** (Doc Ref. 2.1) for the acquisition of interests in Crown Land as shown in the **BoR** (Doc Ref. 3.3) and on the **Crown Land Plans** [\[APP-015\]](#). The consent of the appropriate 'Crown authority' to the compulsory acquisition of these land interests is required.
- 10.2.2 Section 135 of the 2008 Act provides that a DCO may authorise, with the consent of the Crown, the compulsory acquisition of an interest held in Crown land which, for the time being, is held otherwise than by or on behalf of the Crown, and the appropriate Crown authority consents to the acquisition.
- 10.2.3 Crown land is not limited to land owned and managed by the Crown Estate. Section 227 of the 2008 Act defines 'Crown land' as any land in which there is a Crown interest. A Crown interest includes, amongst others, an interest belonging to a government department or held in trust for His Majesty for the purposes of a government department.

10.2.4 GAL has begun discussions the relevant Crown authorities to secure the necessary consent. This has not yet been obtained but GAL will continue to endeavour to secure it before making of the DCO. The status of discussions with Crown authorities who hold freehold interests are detailed in the **Land Rights Tacker** (Doc Ref. 8.6).

10.3 Statutory Undertaker Land

10.3.1 There is provision in the **Draft DCO** (Doc Ref. 2.1) for the acquisition of land and interests in land held by statutory undertakers. These are described in the **BoR** (Doc Ref. 3.3) and shown on the **Land Plans** (Doc Ref. 4.2). The land and interests in land held by the statutory undertakers are for the purposes of carrying out their statutory undertaking.

10.3.2 Section 127(3) of the 2008 Act provides that a DCO may only authorise the compulsory acquisition of statutory undertakers' land and interests in land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

10.3.3 Section 127(6) of the 2008 Act provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertakers' land where a representation has been made by the statutory undertaker objecting to the acquisition and the Secretary of State is satisfied that:

- The rights can be acquired without serious detriment to the carrying on of the undertaking; or
- Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker using other land belonging to or available for acquisition by the undertaker.

10.3.4 Adequate protection for statutory undertakers' assets is included within the protective provisions in Schedule 9 of the **Draft DCO** (Doc Ref. 2.1). These well precedented safeguards protect electricity, gas, water and sewage undertakers by (amongst other things) preserving Part 3 of the New Roads and Street Works Act 1991, protecting rights of access, and restricting the developer's ability to acquire any apparatus without consent. Where necessary, agreements may also be entered into between GAL and statutory undertakers in order to protect apparatus. Accordingly, the statutory undertakers will not suffer serious detriment to the carrying on of their undertaking as a result of the compulsory acquisition of the land or rights over land.

10.3.5 The tests set out in sections 127(3) and 127(6) of the 2008 Act are therefore satisfied.

Acquisition of land over which there subsists a relevant right or apparatus

10.3.6 There is provision in the **Draft DCO** (Doc Ref. 2.1) to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Project. The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 9 to the **Draft DCO** (Doc Ref. 2.1) and/or additional agreements between the parties.

- 10.3.7 Section 138 of the 2008 Act applies if a DCO authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land.
- 10.3.8 For the purposes of section 138:
- 'relevant right' means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land which is vested in or belongs to statutory undertakers for the purpose of carrying on their undertaking, or which is conferred on a telecommunications code operator; and
 - 'relevant apparatus' means apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- 10.3.9 A DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the development consent order relates (subsection 138(4)).
- 10.3.10 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the land within the Order limits. Statutory undertakers and other apparatus owners that are known to have equipment on, in or over the land are included in the **BoR** (Doc Ref. 3.3).
- 10.3.11 A number of existing utility services are located within the Order land and would be affected by the Project. In this case it is proposed to either protect or divert statutory undertakers' apparatus to accommodate the Project. Provision for the carrying out of such diversions has been included within the Works comprising the authorised development (as set out in Schedule 1 to the **Draft DCO** (Doc Ref. 2.1)). It is not proposed to remove any apparatus and extinguish any rights without a diversion being provided.
- 10.3.12 The protective provisions contain constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Project (i.e. the development authorised by the DCO) to proceed. GAL therefore considers that the test set out in section 138 of the 2008 Act is satisfied.
- 10.3.13 GAL is in continuing discussions with the statutory undertakers affected by the Project. Details of the current status of these discussions, which are ongoing, are included in the **Land Rights Tacker** (Doc Ref. 8.6).

11 Conclusion

- 11.1.1 This Statement sets out why compulsory acquisition and temporary possession powers have been sought in the DCO application and explains why the powers are necessary, proportionate, and justified.
- 11.1.2 In determining the extent of the compulsory acquisition and temporary possession powers proposed in the **Draft DCO** (Doc Ref. 2.1), GAL has had regard to the legislative tests set out in the 2008 Act and to the advice in the relevant Government guidance.
- 11.1.3 GAL owns or controls the majority of land required for the Project. The acquisition of land and rights (including restrictive covenants) and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is no more than is reasonably required to facilitate or is incidental to the Project. The purpose for which each part of the land to be acquired is required is set out in the **Land Rights Tacker** (Doc Ref. 8.6).
- 11.1.4 GAL has consulted all persons affected by the compulsory acquisition and temporary possession powers and persons who may have a claim for compensation arising from the Project. There has been a limited need for this in any case, as GAL owns the freehold of much of the land subject to compulsory acquisition. It has consulted such persons during preparation of the DCO application and in the design of the Project to address their concerns and to ensure that any impacts are reduced or removed. GAL has further sought to acquire any interests in the land by agreement wherever practicable. The status of negotiations with affected landowners for the acquisition of their land is set out in the **Land Rights Tacker** (Doc Ref. 8.6).
- 11.1.5 GAL has considered the human rights of the individuals affected by the compulsory acquisition and temporary possession powers. It is satisfied that there is a compelling public interest case for compulsory acquisition and that the significant public benefits arising from the Project will outweigh the harm to those individuals.
- 11.1.6 Without the grant of compulsory acquisition and temporary possession powers, GAL considers that it will not be possible to construct the Project, or realise the public benefits arising from it.

Glossary and Abbreviations

| Term | Meaning |
|-----------------------------------|--|
| "APFP Regs" | means the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (Ref 1.2) |
| the "Application" | means the Application for development consent outlined in Section 2.1.1 |
| "Application Form Guidance" | means the Planning Act 2008: application form guidance (Ref 1.5) |
| "Associated Development Guidance" | means the Planning Act 2008: guidance on associated development applications for major infrastructure projects published in April 2013 (Ref 1.4) |
| "BoR" | means the Book of Reference (Doc Ref. 3.3) |
| "CA Guidance" | means the Planning Act 2008: guidance related to procedures for compulsory acquisition published in September 2013 (Ref 1.3) |
| The "Convention" | means the Convention the European Convention on Human Rights |
| "DCO" | means development consent order |
| "Draft DCO" | means the Draft Development Consent Order (Doc Ref. 2.1) |
| "GAL" | means Gatwick Airport Limited |
| "HMLR" | means HM Land Registry |
| "LIQ" | means Land Interest Questionnaire |
| "NSIP" | means a nationally significant infrastructure project |
| "Order land" | means the order land as specified in Section 2.1.3 |
| "Order limits" | Means the order limits as specified in Section 3.3.5 |
| The "Project" | means the project as specified in Section 2.1.1 |
| "SPP" | means special parliamentary procedure |
| "2008 Act" | means the Planning Act 2008 (Ref 1.1) |

References

- 1.1 Planning Act 2008 c. 29
- 1.2 Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 No. 2264
- 1.3 "Planning Act 2008: guidance related to procedures for compulsory acquisition" published in September 2013 by the former Department for Communities and Local Government
- 1.4 "Planning Act 2008: guidance on associated development applications for major infrastructure projects" published in April 2013 by the former Department for Communities and Local Government
- 1.5 "Planning Act 2008: application form guidance" published in June 2013 by the former Department for Communities and Local Government
- 1.6 Flightpath to the Future published in May 2022 by the Department for Transport
- 1.7 Interim Report of the Airports Commission, 2015,
- 1.8 Airports National Policy Statement published in June 2018 by the Department for Transport
- 1.9 Jet Zero Strategy – Delivering net zero aviation by 2050 published in July 2022 by the Department for Transport
- 1.10 Compulsory purchase and compensation: guide 4 - compensation to residential owners and occupiers published in December 2021 by the Department for Levelling Up, Housing and Communities
- 1.11 Gatwick Airport Master Plan 2019 published in 2019 by Gatwick Airport Limited
- 1.12 Human Rights Act 1998 c. 42
- 1.13 Compulsory Purchase Act 1965 c. 56
- 1.14 Land Compensation Act 1973 c. 26
- 1.15 Aviation 2050 – The Future of UK Aviation – A Consultation published in December 2018 by the Department for Transport
- 1.16 Policy Paper on Overarching aviation noise policy published 27 March 2023 by the Department for Transport