



## Hearing Transcript

<b>Project:</b>	Gatwick Airport Northern Runway
<b>Hearing:</b>	Recording of Issue Specific Hearing 9 (ISH9) - Day 2 - Part 5
<b>Date:</b>	31 July 2024

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## **Gatwick\_31st July\_ISH9\_PT5**

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FULL TRANSCRIPT (with timecode)

00:00:04:24 - 00:00:11:15

So the time is now 2:00. Time to resume this hearing. So we are still on

00:00:13:04 - 00:00:15:12

item 3.1.

00:00:17:08 - 00:00:28:13

Uh, and looking at requirement 25, which is in annex B of the agenda. And this deals with operational waste management plan.

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And we have made an amendment to this to bring forward the approval of the outline. Uh, sorry if the operational waste management plan ahead of construction of the replacement care facility.

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This would be to prevent a situation where the existing care facility has been removed and the replacement facility is being constructed, but can't be brought into operation. If the outline plan is not approved. So could I begin by asking the applicant for comments please, and to explain what would happen if, um, the facility had not been constructed earlier.

00:01:19:07 - 00:01:23:26

Uh, Scotland for the applicant. So, in short, we accept this amendment.

00:01:24:19 - 00:01:25:13

Okay. Thank you.

00:01:30:06 - 00:01:31:04

Mr. Bedford.

00:01:34:08 - 00:01:55:20

Thank you sir. Michael Bedford joining local authorities, sir, in those circumstances, I don't need to say very much because we welcome the change. It picked up, in particular, some concern we had expressed about the use of the word routine in the earlier version and so on. But since the applicant is prepared to make the change, we're content to receive the change, as it were, and that's all that needs to be said. Thank you.

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Thank you. Are there any other comments on that requirements?

00:02:01:13 - 00:02:02:15

No thank you.

00:02:10:23 - 00:02:39:10

So then let's move on to what we have proposed as a new requirements, which is the older management and monitoring plan. And this is based on the joint local authority's suggested requirements in Europe regs. seven 108, and is to ensure that procedures are in place to monitor and manage impacts related to order, in particular for residents of the Holy Garden Estates.

00:02:43:24 - 00:02:47:13

Again, can I stop asking the applicant for comments on this, please?

00:02:48:02 - 00:03:23:00

Uh, Scotland is for the applicant and we do not think that this requirement is necessary. So on the basis that there's no evidence to justify requiring it. Um, the assessment that has been conducted follows the aACM, uh, approach and identifies no significant effect that requires mitigation. Um, what we have done is that, uh, as indicated in the rationale for the requirement, um, there is another reporting process, technical note,

00:03:24:28 - 00:04:01:09

uh, which sets out, um, as the name suggests, some reporting requirements. Um, we could accept that the process set out in that technical note, um, could be secured if that's what's intended, but we don't consider that it should go, um, further than that and imply that there's some form of mitigation which needs to be monitored and addressed as such. So if there is a requirement that essentially follows the process or secures the process set out in the technical notes, we could accept that.

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But anything further we would have difficulties with.

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Okay. Thank you.

00:04:19:13 - 00:04:20:12

Mr. Bedford.

00:04:22:12 - 00:04:53:16

Thank you sir. At the moment, I'll bring in Mr. Hibbs, the environmental health of Reigate and Banstead to provide a bit more detail on this, but we obviously welcome the change that you have picked up on and put forward. It is, as you say, largely based on the proposal that we put forward in our deadline, seven submissions. We think it is necessary, we think it is justified, and therefore we consider that it ought to be included in any DCO.

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And I'll just bring in Mr. Hibbs to explain why what the applicant has so far provided is not sufficient reassurance that odour issues will not be an ongoing concern.

00:05:09:01 - 00:05:46:27

Okay. Thank you. Um, it's a bit loud. Um, really, there was an assessment done by Gatwick in 2019 looking at the baseline scenario that isn't part of the DCO assessment, but that showed that there was a potential Oda issue under the baseline scenario. Um, and really, this is a kind of a development of that. We made our point in the local impact report that, um, we didn't consider the assessment methodology particularly appropriate that had been chosen. Um, and effectively, the moment or the applicant is proposing, it's literally a kind of a complaint, um, keeping mechanism effectively, which it has done for the last 20 years.

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So that's welcome. Um, but this is about moving things on from that effectively.

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Okay. Thank you. Um,

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Mr. Bedford, can you address the applicants issue? That's because there are no likely significant effects. There's no need for mitigation applies in this case in terms of the applicants reply. But it's something we we addressed this morning as well. And I wonder if, um, the local authorities have a view on that as an approach generally.

00:06:23:00 - 00:06:56:01

Thank you sir. Michael Bay for joint local authorities, I think we we don't accept that you have sufficient information to be able to reach a clear conclusion that there will be no likely significant effects. So that is the first point. But the second point is in terms of controls, whilst uh, the EIA regime, uh, is helpful in informing you as to whether there are likely significant effects or not.

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Uh, in the assessment, it is not the case, uh, that, uh, whether it's under the Planning Act 2008 or indeed under the Town and Country Planning Act 1990, the environmental controls are limited only to circumstances where there is a likely significant effect. Um, planning controls can be perfectly, properly imposed. Uh, where there are impacts, which are impacts that are material impacts.

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Uh, if the planning judgment is formed, that they ought to be regulated and that doesn't necessarily march in step with, EIA um requirements and one takes. And I think this is a different example. One takes heritage heritage uh, which is the subject of its own uh, both regulatory regime but also policy guidance has strict tests which require consideration to be given to degrees of harm, which don't equate to likely significant effects for EIA purposes.

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And so it it would be a, in our view, a misunderstanding of the process to say that everything that's below the level of a likely significant effect for EIA purposes simply falls out of account when you are regulating a development. So that's the position in terms of the principle and the approach. Uh, but I say then we don't accept that the position is that you've got sufficiently clear evidence that there is no likelihood of significant effects. And then I'll just see if Mr. Hibbs wants anything further, particularly on Oda, that being more perhaps a matter of his expertise than mine.

00:08:51:15 - 00:09:24:15

As I said before, um, Gatwick had previously assessed the odour impact and have identified an area, the Horley Gardens estate, under their current operations in 2019, where there's likely to be a potential odour impact that warranted further investigation. Now part of that work looked at what was actually driving, um, the cause of the odour issue, and it's driven almost entirely by aircraft movements. So engine start up is responsible for 70 to 78% of the odour issue. Now, the applicant hasn't assessed that as part of its dispersion modeling work.

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And therefore you've got a situation where at this stage, if you want a kind of a rule of thumb, it's the proportional increase is going to there's going to be a significant increase in aircraft movements. So theoretically that will lead to an increase in odor impact above and beyond what you might expect under the baseline scenario.

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So in terms of that odor that's currently being assessed. Yeah. On what legal basis. So is it done through legal agreements or.

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Um, is a piece of work undertaken by the airport of its own back effectively? Um, the original there was some original work done. I think it was back in 97. Um, and that focused on looking at complaint work. And the conclusion of that was complaint work is valuable. Um, but it doesn't tell you the whole picture, and you need to actually begin to do some monitoring. Um, so some initial work began in 2019 by the, by the applicant, um, to look at the issue. Obviously, the first phase of that was dispersion modeling to look at the impacts. And that clearly identified a region of the hooligan estate where it would be reasonable to expect odor complaints to occur.

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You get an effectively an odor contour. Um, and some monitoring was supposedly going to take place, but it never began. We've now got the DCO obviously got a significant uplift in aircraft movements. They are the drivers for the odour issue. And therefore in the absence of any other, you know, evidence from the applicant, it's reasonable to conclude that that would drive an uplift in odor complaint or the potential for odor complaints.

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Okay. Thank you. Mr.. Linus.

00:11:01:12 - 00:11:33:18

Scott Linus to the applicant. Um, I see Mr. Bellinger has joined. I come to him in a moment. I think it's response to Mr. Bedford's point. Um, it's not that helpful to deal with this in the sort of hypothetical in the abstract, but one must look at the specific impacts that are under consideration. And in the cases that we've been looking at, there's simply no evidence to suggest that there is a material effect as far as we're concerned, which identifies a need for, um, uh, mitigation.

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There's no policy justification for it either. Um, so even if you accept that the premise of Mr. Bedford's approach, you need to apply that to specific circumstances of the case. And even then, those tests are not met in this case, simply new policy basis, which would justify the mitigation of being as being sold and using heritage. Um, is not an apposite example. When you're looking at the cases of air quality and, um, odour, one must look at the specific circumstances that pertain.

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In those cases, there may be reasons to impose controls for heritage. Reasons to avoid adverse effects that might arise. Add up in no way means that that translates across to air quality and, um, uh, odor issues. Um, as far as Mr. Ballenger is concerned, I think, I'm not sure he was on line whenever the initial comment was being made. We've asked them to to join, But essentially, Mr. Bellinger, there is a criticism has been levelled at the methodology and the assessment essentially suggesting that it's, um, it should have gone further than it did.

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Perhaps you could explain the rationale for the other assessments carried out and why it's not necessary in the specific circumstances of this case to go further and do what the local the jails appear to be asking for.

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Afternoon. James Belanger, on behalf of the applicant. Um, so yes, firstly, um, regarding the methodology that's been carried out, we've stated within the is that a multi tool approach as recommended by the Institute of Air Quality Management has been carried out which found that there'd be no significant effects as a result of the proposed developments. Therefore, no mitigation is required. Where I think, um, we've gone further from the applicant side is to set out recently within uh, rep 709 for the odour management process reporting process that would be carried out in order to clarify that with the glaze.

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We've not had a chance yet to discuss that in person with them. We'd be very happy to do so, and we'd look forward to doing so in the near future, I'm sure. Um,

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regarding that, I think, um, it'd be really helpful to clarify. Point raised by, um, the inspectorate around it, looking at more of a reporting process than an action process. I believe that it's inherent within that document that where anything is identified, it would be looked at in an appropriate manner and where required, action would be taken and reported back. That's inherent within the review collect, review, action, respond process that we set out and we'd be happy to go back and discuss that further with the JS and make any amendments to clarify that point.

00:14:35:19 - 00:15:07:28

Um, regarding the, um, monitoring that was discussed. Um, I think Mr. Hibbs, um, helpfully outlined that it was undertaken previously. Um, just on behalf of Gatwick, doing the right thing and being an interested party and looking at Oda um in a proactive manner. And actually what that found was that that study was not fit for purpose, for identifying trace elements from Oda, from an airport source.

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There were significant, um, issues with the methodology that's carried out. Um, and it was a scientific study. So there's bound to be, um, useful data that comes from it. But actually putting it in place as a requirement under this project is not suitable. It's not fit for purpose. And when there's a 60% margin of error with significant uncertainty regarding the VOC elements that were found, um, it would not be something that's proportionate for this project to undertake. And actually, what is a good news story is the fact that, um, Gatwick have committed to monitoring across the airport site and that will give really valid and useful information in terms of the emissions and sources that will be, uh, carried out across the airport.

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And they will be able to feed into that review and action process to give more data and more understanding of the emissions that are happening across the airports at any time, which would be beneficial when working back to find out if there's any action that needs to be taken in relation to odour.

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Thank you. Can I just then pick up on what's the current go to reporting process? Technical notes. Covers? Um.

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And its title in itself is a reporting process

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which documents the way in which complaints would be dealt with.

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How would this actually relate to actions to deal with older impacts, and how would they be secured?

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Mr. Ballenger, do you want to answer that or is it Mr. Lyness?

00:17:01:03 - 00:17:02:27

Mr. Ballenger, are you able to answer that?

00:17:04:17 - 00:17:34:20

Yes. Happy to answer that. James Belanger, on behalf of the applicant. Um, so as I say, the steps outlined go through a six phase process to review the information that's been received. to undertake an assessment to understand what was happening at the time. Identify where possible source of that work

with the complainant or the airport operators and particular teams within the airport to understand what was happening at the time.

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It's best to understand the conditions that perhaps caused the odour, identify if it was the airport or if it was not the airport, and be able to come forward with some kind of plan or requirement to respond to. So it's a six step process that goes through everything from collecting the data, reviewing the information, working with the teams, working with the local authorities, working with the um

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community, and then actioning and responding.

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But the the six steps deal with matters such as investigation, analysis and reporting. There doesn't seem to be any teeth in that document. To say that's the applicant has to take action in response to those complaints.

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Do you want to comment further on that?

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Mr. Bellinger, do you want to say something?

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James Bellinger on behalf of the applicants, perhaps that's something I could pick up separately with the Gatwick team at a later date. And as I say, we've not had a chance yet to discuss the odor note with the jazz. So perhaps there's a, uh, a feedback loop there as well that could be beneficial.

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Okay, let's go to the applicant. So yes, the process that Mr. Bellinger was referring to, uh, is set out in paragraph two, .2.2 of the technical note at Rap 7094. And we'll have a look at that paragraph and see if further clarification can be provided on new steps.

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Thank you. Uh, before I come to the IPS, just Mr. Bedford, have you have the local authorities looked at this? And do you want to make any initial comments? Are you happy to respond at next deadline?

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I'm told Michael Bedford, joint local authorities. Yes. We have looked at the document and we're intending to provide our comments on it at deadline. That's fine.

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Thank you. Uh, turns to the IPS. Uh, Cagney first please.

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Thank you, sir. Sally Pavey for, uh, Cagney. Um, we would support the local authorities on annual requests for some teeth in this this subject. Um, a lot of what has been spoken about today is about what is current. If we are to decarbonise aviation, we do not know what SAF is. Sustainable aviation fuel is going to be made from. As such, we don't know the odors that will be coming from these new decarbonized fuels. As such, it needs not just to be monitored and we welcome being monitored, but obviously it needs some action and we would like to see something through this process to do that.

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The other thing is that we have referred to the incinerator going and the waste sorting site. We know from waste sorting sites in the Horsham area. They create a lot of odours, especially in the summer months. And we would we once again raised concerns which we have through our submissions to you. But just to reiterate that to you. Thank you. Thank you.

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Um, Mr. Tanner, do you have your hand up?

00:20:53:15 - 00:21:30:11

Thank you. Nigel Tanner, resident. I just wanted to point out the obvious that the applicant's response is entirely illogical. That they state that the chair position was hypothetical. And yet the JLA cited that emissions come from aircraft stocks and start ups at 7,078%. If the number of flights is going to increase, which is the purpose of the application, it is therefore obvious that the emissions will increase, and therefore it is obviously necessary that they are monitored in the teeth.

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And and the final insult was that the applicant used to consider this good practice and cited their monitoring as good practice, but now doesn't appear to think it's necessary. It's just completely illogical and time wasting. Thank you.

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Councillor Essex.

00:21:59:23 - 00:22:29:28

Thank you. Brief. In brief, if I may. Firstly, um, the GLA are setting out a rationale for, um, this to be not just on the airport but in areas where residents are affected, whereas the applicant is suggesting it should only be on the airport site. As a councillor, I think it's very important that resident residents impacts directly are tracked and the Holy Gardens estate is the worst affected areas, that there seems to be a strong rationale for what the JLR are saying in this regard.

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Um, more generally, um, the applicant has said that there's no evidence to see that this is needed as far as they're concerned. I think there's a more general concern I would have as, uh, neither being the applicant or part of the JLA. Us as interested parties are relying on information share to us in public. So if modeling is not able to be shared publicly so we can end independently, verify it, whether it's via SIM modelling on transport, the overall transport modelling, the air pollution modelling, noise envelope or for that matter even the um, the noise of any individual aircraft type craft type from the CIA is not shared publicly.

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How are we able to be able to ascertain that we are happy, not just the applicant being happy, because this is not their examination, is your examination that actually these measures are being dealt with properly. And and if they are, if there's element, any element of doubt, I think as a precautionary approach, it's good to actually have these, um, checks and balances in place. So we would support what you've set out and building on what the case has made. Thank you.

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Mr. Lyness. Comments.

00:23:43:00 - 00:24:17:23

Scotland. The applicant. I don't think we need to add anything. Given our position that there isn't an effect here which needs to be mitigated to begin with. We will have a look at the water management plan that has been, or the technical note that has been suggested, to see how far we can be thought up, insofar as there are references made to uh, matters relating to West from Cagney and uh, in particular, um, there are mechanisms designed to deal with that through, for example, the Construction Waste Management Plan letters version submitted at rep 702 years.

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The operational waste management plan as well. Um and air quality monitoring will be published in response to the point that was raised a moment ago through the section one of six contributions sexual and sexual obligations as committed the applicant to to publishing that at that monitoring. So insofar as various specific points are made about the steps that the applicant is taking to report on various forms of impact or control them, we think that the reporting is adequate, where it's being proposed and where management is required, particularly in the context of where that's already secured through the DW.

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Thank you.

00:25:10:15 - 00:25:20:29

Okay. Um, are there any other comments on any of the requirements in schedule two of the draft DCO at this point?

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No. Okay.

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Let's move on then to a few overview issues in relation to item 3.2. We've picked up the specific topic issues already through various members of the examining authority, but I just want to raise a few overview matters.

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So I'd like to begin with looking at the explanatory memorandum, um,

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which was submitted.

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So that's reference rep 775.

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Sorry I've got so many tabs open, I can't see where this is.

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Okay, so

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the draft section 106 Explanatory memorandum is the starting point for this. Now

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what I'm wanting to explore is whether that provides sufficient justification for the levels of funding proposed in the section 106 agreements. I go back to Action point 19 from issue seven, where we ask the applicant to explain in the explanatory memorandum how the financial contributions within the schedules had been arrived at. We touched on some of this this morning in terms of 1 or 2 of the individual, um.

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Parts of the agreements. The.

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Annexes.

00:28:12:29 - 00:28:52:21

Oh, sorry. The individual schedules, but I'd like to just go through and understand more fully how those numbers have been arrived at. Bearing in mind that if this is to be completed, agreements which, um, is signed by local authorities and the applicant. We need to understand what that level of, uh, contribution in each case is and why it's been set at that level and what it's seeking to achieve. And so I think for all of the schedules, um, we're looking for more detail to actually explain why those numbers have been arrived at.

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Now, I don't know if it's appropriate to go through them all seven schedules and look at the numbers themselves, or you want to make comments more generally.

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Uh, Scott asked for the, uh, the applicant. I think, sir, given that discussions are ongoing between, um, ourselves and the jela, um, the most appropriate, uh, approach is to make sure that should agreement be reached, we can reflect the figures that are agreed, uh, within the final explanatory memorandum. At the moment, it's been quite difficult to essentially complete a justification for funds that are still under discussion.

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And so I think the best approach is to let those discussions continue. And then we have the point. And we can ensure that under an explanatory and explanatory memorandum that the funding, um, position is explained in more detail in response to the concern you've given.

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Okay, that sounds reasonable, but what I do want is a proper explanation of the numbers. What is the justification for coming up with a figure? For instance, the hardship fund is £10,000. On what basis has that been developed? The surface access, um of airport parking support contribution 49,500. Sounds very precise, but what's the basis of that? Why is the transport and mitigation funds around figure of 10 million.

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So at the moment we haven't got anything in the exponential memorandum which explains those numbers. It explains why you think there are there is a need for a provision, but I think there's quite a bit more to be done. And I wouldn't like to get to the point where, I mean, it may be difficult. We may end up in this position, but if you are only providing that at deadline nine, which I doubt if you'll be able to do it before that, if you did it at deadline nine, then there is much time for us to interrogate those numbers, and I think we do need that information to be able to advise Secretary of State.

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Years? Yeah.

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Scott Myers for the applicant. Point taken. Uh, so I think what we'll do is that where we are able to give information that deadline that we will will signpost, what information will come at will come after that on the figures themselves, which indicate that figures will be calculated in different ways and as is the norm with some section 106 contributions, it's often not a matter of precise calculation, but rather judgment. But we will explain the process.

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At least that's been followed in order to arrive at those figures. Um, uh, provided it's understood that it's not always going to be a precise, a and precise number.

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Understood in some ways. Well, at least a ballpark figure with some reasoning would be more helpful than nothing. So that's the way Scotland we understand.

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We'll do that. Okay.

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Okay. Mr. Bedford, did you want to comment on this at all?

00:32:23:28 - 00:32:57:09

Michael Bedford, joint local authorities not in any detail because it is, as Mr. Linus has said, the subject of, um, negotiations. Certainly in a number of instances. We are expecting that if agreement is to be reached, the numbers will be different and probably bigger than the numbers that you've currently got in the documentation. Uh, and therefore it's going to be the, as it were, the final numbers that you're interested in. So I don't think it would be helpful to, as it were, say much more than that at this stage.

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That's fine. Thank you. Does anyone else want to comment on that particular item?

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Councillor Essex.

00:33:05:24 - 00:33:46:08

Thank you. I just wondered what the remedy would be if any one of these numbers is found to be too low. Um, for example, should the surface access commitments be breached and there's a need to spend money, have measures to to address that. I mean, it is is there any, any way to ensure that not only, um, there is a good initial number, but there's some mechanism to revisit it and increase that number subsequently? Um, linked to the monitoring to make sure that, you know, we can't we can't see in the future that there could be a case where what, what gap we could presenting to us.

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Now what sorry, what the applicant had presented is now it just doesn't turn out to be true because one of their modeling, uh, reports, which hasn't been independently verified, has some assumptions in which which turn out to be completely incorrect.

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Okay. Thank you, Mr. Linus. Do you want to respond on that?

00:34:03:24 - 00:34:32:06

Uh, Scott, for the applicant. I don't need to go into the detail over what the sacs secure, but it's not purely bind to the planning obligations. As you'll appreciate, there are commitments which stand independently, and there's a monitoring and compliance regime specifically set out within the SACs, which would be which would be followed in order to ensure compliance. Um, so we don't accept the proposition that's been that's been put because our SACs make adequate provision.

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Okay. Thank you. Yes. Councillor six.

00:34:36:02 - 00:34:50:15

I think I just want to flag that I wasn't making a specific comment on the sack. I was giving that as an example of what would happen if any one of these numbers was insufficient, and there wasn't any enough funding to deliver what was originally intended.

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Okay. Thank you. Points noted. Thank you.

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So then let's move on to item 3.3. And again the overview issues that we have. Item three is uh the applicants and joint local authorities will be asked about the scope of and agreements about control documents.

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Now.

00:35:24:04 - 00:35:56:28

We've been through the list of control documents, which are originally set out in the planning statements and have been added to over time, and we've been trying to ensure that we understand how those control documents are tied back to requirements, and most of them are. But there are a few where we aren't quite clear that there is a link there and just want to check.

00:35:57:00 - 00:36:07:27

And it may be that these are issues you need to take away, but if I just list them, the ones that we think are outstanding for now. Uh, the first one is the water management plan.

00:36:10:14 - 00:36:22:05

I think I'll just go through the list for now, and then you can comment afterwards if necessary. So water management plan the construction, communication and engagement plan.

00:36:25:04 - 00:36:29:14

The outline. Invasive and non-native species management strategy.

00:36:34:00 - 00:36:45:27

The employment, skills and business strategy. So obviously we spoke about that this morning. And the surface access highways surface water drainage strategy.

00:36:53:06 - 00:37:26:28

And then alongside that, the code of construction practice, I think, is paragraph 2.2.9 states that internal compliance documents, namely the Community and Engagement Management Plan, site waste management plans, resource management plans, pollution prevention plan and adverse weather management measures will be prepared and do not require approval by local authorities.

00:37:29:07 - 00:37:40:27

I suppose in that latter case then they wouldn't be secured. But I'd like to understand why they aren't subject to local planning authority.

00:37:42:28 - 00:37:45:07

Either consultation or approval.

00:37:54:11 - 00:38:25:20

Mr. Lyons scored for the applicant. In terms of the final point, sir, relating to paragraph 2.2.9. The basic answer is that the level of detail in those documents is about High Guard data, specifically with

its contractors, and obviously that there are broader provisions within the copy relating to construction generally. But it's not necessary to have local authority approval in respect of documents which are intended to control the detailed relationship between the applicant and its own contractors.

00:38:26:24 - 00:38:38:25

Yes, but we're trying to give comfort, uh, to so that it can be seen why that process is being followed. But it doesn't mean that that requires local authority approval of those documents.

00:38:39:07 - 00:38:43:01

Okay. Um, but the community and engagement management plan

00:38:44:19 - 00:38:49:04

does have wider implications than simply contractors.

00:38:51:16 - 00:38:59:09

That secure the community engagement plan is secured under the cusp, as I understand it.

00:39:01:14 - 00:39:01:29

Yes.

00:39:02:15 - 00:39:27:04

Yes, yes. Sorry for the applicant. Um, the community engagement plan is secured through the cusp. A distinction needs to be drawn between that and the documents referenced at paragraph 2.2.9, which essentially are internal compliance documents that regulate, as I say, the relationship between the applicant and contractors. We do see a difference, but we can have.

00:39:27:07 - 00:39:37:27

Two separate documents. Okay. Thank you. Okay. So in terms of the the initial list I gave you, will you come back to me on that or do you want to comment now?

00:39:38:27 - 00:39:39:12

I'll do it.

00:39:40:02 - 00:40:11:19

So I'll let them explain what the answer is. Answers are now, but I should say that what we are intending to do off the back of the point you've just raised is that we're preparing a controlled document, signposting and document that we hope to submit it or intend to submit a deadline nine which will hopefully allow the tracing process that you've been conducting to be followed through in respect of each of the control documents. But in advance of that, we can answer the immediate questions now if that would assist.

00:40:11:21 - 00:40:12:20

Thank you. Yes.

00:40:14:05 - 00:40:46:17

Natasha Hyde for the applicant. So the the first three, the water management plan, construction communication engagement plan and the invasive native invasive native species. Um, both all three of those are annexes to the Code of construction Practice, which is secured by requirement seven. And so by virtue of that, they are secured through that same mechanism. Um, and then on the SBS, as we've, we've discussed, that is currently secured by the section 106, subject to further discussions tomorrow.

00:40:47:09 - 00:41:07:21

Um, and then the surface access drainage strategy is secured under in terms of the local highways DCO requirement 11, and then in terms of the strategic road network through DCO requirements six, which then points to the protective provisions with National Highways, where it's also secured.

00:41:08:02 - 00:41:09:12

Thank you. That's helpful.

00:41:19:10 - 00:41:24:16

Does anyone want to comment on that specific issue before I raise something else under control documents?

00:41:27:17 - 00:42:03:09

So Michael Beveridge joined local authorities. We have provided comments partly in response to your Q2 DCO TCO 2.26 as part of our response. Rep 7110. Uh, where we do have some concerns on some of these, um, uh, control documents sitting under the CCO. Uh, CP um, I don't think well, we talked separately about the ISPs.

00:42:04:01 - 00:42:33:20

Um, I don't think we have raised a specific issue on, uh, the first three, uh, that you have identified that, say, the water management plan, uh, the, um, construction communication engagement or the outline invasion species strategy. Uh, and then we have also, I think, made some comments about the surface access, um, surface water drainage, uh, strategy. So we've provided that to you already in, uh, written submissions.

00:42:34:11 - 00:42:54:16

Thank you. Any other comments? No. Okay. So let me then move on to a submission that was made by the joint Surrey authorities, which was rep six 101. It's item four. And that was.

00:42:56:21 - 00:43:00:24

Identifying a whole range of, um,

00:43:02:20 - 00:43:35:08

documents or actions that the Saudi authorities thoughts were necessary. And I can't see that the applicant has responded to that in the deadline. seven response to deadline six submissions. So where I expected to see responses at 795, but that doesn't seem to be a response there to that document. Is that something that the applicant could have a look at again, please?

00:43:40:24 - 00:43:54:07



Yes, Scott liners for the applicant. I think we may have responded at some points in the in the round, rather than giving you a blow by blow. Um. Response. Um, we can we can check that, sir. Thank you.

00:44:01:11 - 00:44:39:18

Good. Thank you. And then the final thing I wanted to say under this agenda, item 3.3, is that if any parties wish to comment further on anything that is within any control documents, then please do do so as soon as possible so that parties, other parties can see it. And picking up on what we said this morning about the carbon action plan. If there are particular changes people think should be in that plan, then that is the vehicle to to make those comments.

00:44:40:06 - 00:44:41:02

Okay. Thank you.

00:44:43:18 - 00:45:04:02

So let's move on to item 3.4, which is for the applicants and joint local authorities to be asked about specific articles and schedules of the draft DCO, excluding schedule two, which have dealt with where agreement is unlikely to be reached by the close of the examination.

00:45:05:24 - 00:45:36:28

So I'm not going to go through every individual article and schedule. Um, I think at this point it just be useful to have an indication from the parties where it is felt that there may be some sticking points, so that in particular areas where we need to be aware of, um, further work that we were going to have to do after the next deadline.

00:45:37:26 - 00:46:07:14

Um, and if there's anything that parties want to raise now to try and, um, help us understand what the outstanding issues are. So could they start then just by asking, I mean, maybe we just do this through the particular parts of the DCO. Um, anything on the preliminary part? One section? The parties want to raise.

00:46:07:28 - 00:46:46:05

Scott laughed at. So perhaps you could just make an overview, a comment which may hopefully assist and speed things along. As you're aware, we made changes to the DCU. Submitted at deadline seven. JLR had made comments which were also submitted at deadline seven, which will be considering, but obviously they haven't had a chance to comment. We haven't seen any comments on our deadline seven submission, so we're not entirely clear because of the way the, uh, the deadlines have worked, where there are actually outstanding issues because we've submitted the latest document, The Deadline seven.

00:46:46:07 - 00:47:05:11

So I think this is a circumstance where it's going to be easier for the Glas to identify where those points are. It may not be of great assistance to you to have any debate on those, but it would help us to know what those outstanding issues are, and then we can address those in writing in the normal way.

00:47:05:27 - 00:47:07:19

Okay. Thank you, Mr. Pittsford.

00:47:09:18 - 00:47:41:13

Thank you sir. Well, uh, if I sorry Michael Webb for joint local authorities, if I limit what I say to the, um, provisions of the draft eco, where I think our current assessment is that we think it's unlikely that we're reaching a common position. Uh, so there are there are obviously there's a large number where there have been some productive discussions on the drafting and progress is being made, even if we're not yet, uh, as a common position.

00:47:42:01 - 00:48:18:24

But in headline terms, there are issues about article 11 in relation to street works, both in relation to the specificity of it as to whether it needs to be accompanied with a clear list of streets that are the subject of some of its provisions, and also in relation to the consent arrangements. I come back to that in a moment. There are issues in relation to article 25, in relation to the, particularly the removal of hedgerows.

00:48:19:25 - 00:48:57:28

There are still issues in relation to the description of the development in schedule one, in terms of the authorised development, based on some of the works, um, there is still an issue in relation to what are described as the additional works. And then there are issues on a number of the requirements. Um, some of those rehearse ground that we know that we in a sense disagree about, particularly things like noise. Um, so if I can if I deal initially with the position on article um, 11

00:48:59:20 - 00:49:42:28

and that, uh, authorizes the undertaker, uh, for the purposes of the order to enter on to, um, so much of any of the streets as are within the order limits and may carry out certain street works. Um, we have been requesting that there be a list of the affected streets. And that should be set out in a schedule to the order. Uh, and you will recall, uh, that you asked, um, the applicant to provide a schedule of streets in your Q two, but the applicant, uh, decided that it didn't wish to do so because of the stage of design.

00:49:43:00 - 00:50:33:18

And, uh, and therefore it didn't feel able to give a comprehensive, uh, list. Um, I think the further dialogue and discussion has been to see if it's possible to identify streets which are of particular concern or sensitivity to the joint local authorities. Uh, we are looking at that as a possibility to see whether that would move things forward. But assuming that we don't reach a common position on that, I think what we would be inviting you to do is to revise article 11 so that if there isn't an agreed list of streets that are affected, then the consent of the street authority is required before that power can be exercised.

00:50:41:20 - 00:51:18:25

And then that links to the second article 11 point, which is on this issue of consent. Um, and um, again you raise the issue. If there wasn't a list of streets, should there be any street authority consent in excuse? Um, the applicant has been resistant, uh, to that, um, because it considers that the, uh, the works aren't of a magnitude that should give rise to issues, but we say that's simply not something that it's possible to be confident about.

00:51:19:07 - 00:51:40:03

Uh, at this stage, uh, and so we do see there is a need, I say, for a, a consent, uh, arrangement if we haven't reached an agreement about, uh, the streets because the works could be potentially significant, um, in terms of their effect on the highway and on highway users,

00:51:41:22 - 00:52:12:22

Then, uh, turning uh, to article 25. Uh, and again, we've asked for the, uh, hedgerows, which could be removed under article 25 to be listed in a schedule and shown on a hedgerow plan. Uh, we think that is precedented in a number of DCS, including those which are geographically more extensive in terms of hedgerows, which are affected.

00:52:13:07 - 00:52:44:26

Um, we are content, as it were, as a um, a mechanism that the, um, the list wouldn't necessarily need to be within the article or in, um, a schedule accompanying the article, but it could be in a separate document to be um, submitted, uh, and regulated under the article. Uh, the applicant again disagrees, considers that the arrangements are, um, satisfactory.

00:52:44:28 - 00:52:54:20

I'm afraid we're not persuaded by what the applicant, uh, has suggested. And so we think that's likely to be all. And where you're going to be asked to make a decision.

00:52:55:03 - 00:52:55:28

On that one.

00:52:57:19 - 00:53:03:21

I can't recall seeing. Have you suggested wording for an amendment to that article?

00:53:05:03 - 00:53:18:26

Um, I'm just thinking whether we have put that forward in our reps. Seven. Yes, in our rep seven. Um.

00:53:21:09 - 00:53:29:22

Item number nine I'm told of just a moment. Um, I assume that's in rep 7108.

00:53:31:24 - 00:53:32:12

Thank you.

00:53:38:18 - 00:53:39:19

Sorry to carry on.

00:53:40:00 - 00:54:15:19

The schedule one. This is the, um, um, work numbers in the descriptions. I think we have been having some dialogue with the applicant to seek to provide some further description of some of the works, but I don't think we're at the moment confident that we're getting to a common position on that. So you may well have to take a view on the respective positions as to what level of detail is needed to describe the works. We think it's likely to be the extent to which there are descriptions of parking spaces, office floor space, etc.

00:54:16:00 - 00:54:17:07

matters of that nature.

00:54:19:22 - 00:54:55:20

And then uh, the uh, in terms of the identified additional, uh, works, I think we still have an issue about the larger construction compounds, because we think that they are potentially capable of having, uh, wider, uh, environmental effects and therefore that rather than being caught in the catchall at the end of schedule one, that they should be. Yes. Uh, specific. Uh, Lee described, uh, works. Um, I say, in terms of the requirements, I'm not going to deal with the, the noise issues because that's all been, uh, rehearsed.

00:54:56:07 - 00:55:05:16

Um, and obviously you are going to have to come to some views on that. Um, and then there are matters which, um,

00:55:07:01 - 00:55:08:12

we, um,

00:55:10:09 - 00:55:41:20

have already said, depending on the various negotiations and what the outfall for those negotiations are. The 106. Assuming that there's a disagreement between the parties, there will be things where we will be putting forward requirements as the way in which we suggest that you deal with those issues. It's probably fair to say that if we've reached that area of disagreement with the applicant, the applicant may not be content with whatever requirement we're putting forward, because if we could have resolved it, we would have resolved it.

00:55:41:24 - 00:55:51:11

So I suspect there will be others which will be in your uh, Xa to resolve box. If I can call it that. So so if that gives you an overview, good overview.

00:55:51:13 - 00:56:16:16

Thank you for that. Can I just raise a couple where I thought you might have said you're not likely to reach agreement. And maybe the absence of comment means you are, but um. Article nine planning permission. I know that was one where the parties were some distance apart. Is that close to resolution agreement, I think.

00:56:16:19 - 00:56:36:13

I think it is still one where there is, uh, continuing discussion. Um, and certainly those who've been, uh, preparing uh, uh, the, the notes had not put that into the irreconcilable box, but you've seen. Yes the representations on that. So anything.

00:56:36:15 - 00:57:08:12

Else? Alister Lewis for um, the jazz I confirm that with we're still in, uh, in discussions with the applicant on a number of the, um, amendments which, uh, are set out in rep seven, uh, 108. You've picked up on ones, uh uh, where, um, we put it, I suppose it's in the orange category rather than the

red category that Mr. Bedford has been through. So whilst we're hopeful that we can reach a compromise on that particular one, I wouldn't rule out us not reaching an agreement.

00:57:08:27 - 00:57:15:28

That's fine. Thank you. And the. And the other one I wanted to raise was article 56 teams consent.

00:57:18:21 - 00:57:36:19

I think we are there on that one. This is the, uh, there have been amendments put forward at D7, which, um, go halfway. To what? To what we were looking for. And I think that we're probably, uh, we I would put that in the green to orange, if that helps. Okay. Thank you.

00:57:36:25 - 00:57:46:04

That's good. Thank you. Um, does anyone else want to comment on this before I go back to the applicant? No. Mr. Linus.

00:57:47:12 - 00:58:20:06

Uh, Scott Linus for the applicant. Um, I don't think we disagree with, uh, the scope of the issues that Mr. Bedford has identified. Um, but I don't think we need to go into detail as to what our response to each of those is. Uh, today, as far as, um, article 11 and article 25 are concerned. Um, our responses are set out in a Q2, DCU 2.8 and two point uh at 12 uh, within rep at 7081.

00:58:20:25 - 00:58:54:17

Uh, as far as the issue of article 11 and the streets is concerned, we think there's a precedent to establish what we're doing. But we've explained that in the. And the answer, uh, on article 25, we think there is sufficient protections in the DCU, um, already including um requirement 28 or cultural and vegetation methods, different sorts of hedgerows isn't uh, isn't required as far as schedule one is concerned. Um, uh, essentially, um, we have uh, in the updated schedule of changes the DCU submitted at deadline at seven.

00:58:55:01 - 00:59:26:25

Um, we have set out the amendments that have been made for clarity and to add additional detail that's otherwise contained in the design principles. As we said, that forms part of a comprehensive exercise on design matters that we undertook following Easyjet as described in our response. The deadline six submissions should wrap 7096 that respond to a number of interacting points about work descriptions, work plans, parameter plans, design principles, etc.

00:59:27:05 - 00:59:57:26

and from the schedule one, a perspective will await the JLR response at deadline, but we hope that the changes we've already made and the detailed explanation contained within that appendix A document goes at least some way to addressing their concerns and explains why further change isn't necessary for the reasons that we've we've given there. Um, we note that the JLA has put in a number of further comments on the work description at deadline seven, some of which we said have been addressed by our response at deadline seven.

00:59:57:28 - 01:00:32:24

As I said before, others we think could be addressed by the proposed parking cap will respond and deadline. Yet the submissions um, uh, will signpost where a change has been made uh, previously through the deadline. Seven response uh, but, uh, we'll make any further updates from response to the submissions where new requests have been, uh, made. But we need to know what those requests are. As we've said before, a general complaint about the breadth, uh, isn't really going to work for us at this stage of the examination.

01:00:32:26 - 01:00:58:19

No. And instead, that's helpful to hear both parties views and have an overview of where you think there are differences. So that's been helpful for me. Thank you. So I think that's unless there's anyone else wants to say anything. I think that brings to the conclusion item three on the agenda. So I'll now hand over to Mr. Hockley to deal with item four. Thank you.

01:01:01:29 - 01:01:08:12

Thank you, Mr. Lyness. Sorry, sorry. Scotland. We need to shift team members, sir. Move.

01:01:08:16 - 01:01:09:01

I was going.

01:01:09:03 - 01:01:18:12

To suggest because it's 3:00 now. Yes. Would the parties be happy with just a short break now, to have the short break and then go on through the last two agenda items afterwards.

01:01:18:14 - 01:01:29:10

Yes, sir. Scotland. If we may, we would be. There may be a sort of procedural matter we'd like to raise for the first time about programming between today and tomorrow. Be grateful for the opportunity to do that in the break. In a short break.

01:01:29:21 - 01:01:36:00

If we if we break now until 3:20. Thank you. Thank you. Hearing's adjourned.