



**Horsham
District
Council**



GATWICK AIRPORT NORTHERN RUNWAY PROJECT

Planning Inspectorate's Reference: TR020005

Legal Partnership Authorities

CONSOLIDATED SUBMISSIONS ON THE DRAFT DEVELOPMENT CONSENT ORDER – UPDATE AT DEADLINE 8

RESUBMISSION VERSION

Deadline 8: WEDNESDAY 07 AUGUST 2024

Crawley Borough Council (GATW-AFP107)

Horsham District Council (20044739)

Mid Sussex District Council (20044737)

West Sussex County Council (20044715)

Reigate and Banstead Borough Council (20044474)

Surrey County Council (20044665)

East Sussex County Council (20044514)

Tandridge District Council (GATW-S57419)

LEGAL PARTNERSHIP AUTHORITIES

CONSOLIDATED SUBMISSIONS ON THE DRAFT DEVELOPMENT CONSENT ORDER

INTRODUCTION

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

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

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

Purpose of These Submissions

These submissions concern the Draft Development Consent Order (“**dDCO**”) submitted by the Applicant at Deadline 7 [\[REP7-005\]](#). The purpose of these submissions is to signpost the ExA to the Legal Partnership Authorities’ key concerns regarding the dDCO in advance of publication by the ExA of a Proposed Schedule of Changes to the dDCO on Wednesday 14 August 2024.

These submissions are formed of three parts:

- **Part A:** Response to the Applicant’s Schedule of Changes to the dDCO at Deadline 7 [\[REP7-004\]](#)
- **Part B:** Legal Partnership Authorities List of Proposed Amendments to the dDCO submitted by the Applicant at Deadline 7 [\[REP7-005\]](#)
- **Part C:** Legal Partnership Authorities Comments on the ExA’s Proposed Requirements contained in Annex B to the Agenda for Issue Specific Hearing 9 [\[EV20-001\]](#)
- **Part D:** Legal Partnership Authorities Comments on the Applicant’s Responses to ExQ2 – Questions on the Draft Development Consent Order [\[REP7-081\]](#)

Legal Partnership Authorities

Gatwick Airport Northern Runway DCO (TR020005)

NOTE TO EXA:

Please note that this submission should be read in light of, and having regard to, the Legal Partnership Authorities' Deadline 8 submission "Update on Negotiations Regarding the Draft DCO Section 106 Agreement" which reports the up-to-date position to the ExA that broad agreement has been reached between the Applicant and the Authorities on many of the Authorities' outstanding concerns relating to the monitoring and mitigation of environmental impacts.

In the unlikely event there is conflict between the Authorities' submission "Update on Negotiations Regarding the Draft DCO Section 106 Agreement" and another of the JLAs' submissions, the ExA should have regard to the update on the section 106 negotiations. When considering the below submission, the ExA should also have in mind that the Authorities maintain their position in relation to the proposal for an Environmentally Managed Growth Framework ("EMGF") ((see [\[REP4-050\]](#), [\[REP5-093\]](#) and [\[REP6-100\]](#)), or any similar measures relating to controlling growth within environmental limits.

PART A:

RESPONSE TO THE APPLICANT’S SCHEDULE OF CHANGES TO THE dDCO at Deadline 7

This Part A responds to the Applicant’s Schedule of Changes to the Draft Development Consent Order [REP7-004] submitted at deadline 6. The changes set out in the Schedule of Changes are all reflected accurately in the DCO itself [REP7-006] and the revised Explanatory Memorandum [REP7-008]. The Legal Partnership Authorities’ comments on the Schedule of Changes therefore apply to those two documents.

Row	Provision	Change made at Deadline 6	Applicant’s Reasoning	Legal Partnership Authorities Response
Changes Made at Deadline 7				
165.	Recitals	<p>The Secretary of State is satisfied that replacement land (as that term is defined in section 131(12) of the 2008 Act) has been or will be given in exchange for the special category land identified in Part 1A of Schedule 10 to this Order, and that the replacement land has been or will be vested in the person or persons in whom that special category land is vested and subject to the same rights, trusts and incidents as attach to that special category land, and that, accordingly, section 131(4) of the 2008 Act applies in respect of that land;</p> <p>The Secretary of State is satisfied that the special category land identified in Part 1B of Schedule 10 to this Order is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and the giving in exchange of other land is</p>	<p>The deletion of this recital reflects that the Applicant is now proposing to rely solely on the exception to special parliamentary procedure in section 131(5) of the 2008 Act in respect of the acquisition of special category land as all special category land proposed to be acquired is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway.</p> <p>The Applicant no longer intends to rely on section 131(4) because that requires that replacement land is vested in the entity from which the special category land is being acquired. None of the local authorities (including RBBC, from which special category land is being acquired) wish the replacement land to be vested in them, so the Applicant has agreed to hold the land itself and maintain it as open space in the same manner as previously communicated.</p>	<p>While not a matter for this recital, the Authorities’ position in respect of the duration of the replacement open space to be provided is set out in the comments on article 40 below (row 173) and in row 6.1 of the Authorities’ post-hearing submission for CAH2. Otherwise, the Authorities have no comments in respect of this amendment.</p>

		unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public, and that accordingly section 131(5) of the 2008 Act applies in respect of that land;	<p>The practical provision of replacement land for the special category land to be acquired remains unchanged and it is only the specific legal exception from section 131 of the 2008 Act to be relied upon that has changed.</p> <p>Article 40 (special category land) has been retained in the same terms (save for the provision which vested the replacement land automatically in RBBC) and therefore continues to secure that special category land cannot be acquired until the undertaker has acquired the replacement land and has submitted an open space delivery plan to CBC for approval.</p> <p>Further detail is provided in the updated Statement of Reasons (Doc Ref. 3.2).</p>	
166.	Article 8 (consent to transfer benefit of Order)	(b) in relation to a transfer or a grant relating to any part of Work Nos. 10(h), 11(d), 28(b) (office and welfare facilities), 16 (new aircraft hangar), 26, 27, 28(a) or 29 (hotels) and any relevant accesses thereto , any registered company.	Amended for precision to clarify that Work No. 28(b) is an office and Work No. 28(a) is a hotel. The reference to accesses is included to ensure that if the benefit of a particular work is transferred, the benefit as regards any necessary access to that work can also be transferred.	The Authorities have no comments in respect of this amendment.
167.	Article 9 (planning permission)	(5) Where the undertaker identifies an incompatibility between a condition of a planning permission and this Order that engages paragraph (4), it must notify the	This change has been made for the reasons described in response to DCO.2.6 in the Applicant's Response to ExQ2 – Development Consent Order and Control Documents (Doc Ref. 10.56.4).	<p>In respect of paragraph (5), please see row 4 of Part B of this document.</p> <p>In respect of paragraph (7), please see the Authorities' latest position on the application of this article to permitted development rights, as set</p>

		<p>relevant planning authority as soon as reasonably practicable. (6) Subject to paragraph (7), Nothing in this Order restricts any person from seeking or implementing, or the relevant planning authority from granting, planning permission for development within the Order limits. (7) The undertaker must not exercise the permitted development right in Class F of Schedule 2 to the 2015 Regulations for— (a) any development on the areas labelled Work No. 38 (habitat enhancement area and flood compensation area at Museum Field) or Work No. 43 (water treatment works) on the works plans; or (b) any development of car parking on the area labelled Work No. 41 (ecological area at Pentagon Field) on the works plans.</p>		<p>out in the Authorities’ Post Hearing Submission on ISH9 which is submitted at Deadline 8. The relevant text is next to the “Surface Access” column and under the sub-heading “Oral Submissions on the removal of permitted development rights relating to the provision of additional car parking”.</p>
168.	Article 10 (application of the 1991 Act)	<p>(3) The following provisions of the 1991 Act (whether modified or not by the permit schemes or the lane rental schemes) do not apply in relation to any works executed under the powers conferred by this Order — [...]</p>	<p>The deletion of the reference to section 77 in paragraph (5) corrects a drafting error, as this provision was included in both paragraph (3) and (5). The other new drafting incorporates the Surrey and West Sussex permit schemes, as</p>	<p>The Authorities are content with these amendments, subject to the following drafting point. Paragraph (7) states the permit and land rental schemes “.... will be used by the undertaker in</p>

		<p>(5) The provisions of the 1991 Act referred to in paragraph (4) are—</p> <p>(j) section 77 (liability for cost of use of alternative route);</p> <p>(7) Subject to paragraph (3), the permit schemes and the lane rental schemes apply to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.</p> <p>(8) For the purposes of this Order a permit may not be granted under the permit schemes subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.</p> <p>(9) Any difference arising between the undertaker and either of West Sussex County Council or Surrey County Council under the relevant permit scheme will be resolved by arbitration under article 54 (arbitration).</p> <p>[...]</p> <p>(11) In this article—</p>	<p>discussed in response to DCO.2.7 in the Applicant's Response to ExQ2 – Development Consent Order and Control Documents (Doc Ref. 10.56.4). It also makes clear that the lane rental schemes also apply.</p> <p>As per the Explanatory Memorandum to the Draft DCO (Doc Ref. 2.2), the drafting regarding the permit schemes is predated in the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022. The lane rental scheme drafting is bespoke, and the Applicant is willing to consider the JLAs' preferred drafting if different from that advanced here.</p>	<p>connection with the exercise of any powers conferred by [Part 3 of the DCO]".</p> <p>The Authorities would expect to see "must be used" rather than "will be used" (because "will be" raises the question "when will it be used?" and so creating uncertainty; there is no such uncertainty with "must be used").</p>
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		<p>(a) “the permit schemes” means the following schemes made under Part 3 of the Traffic Management Act 2004 as in force at the date on which this Order is made—</p> <p>(i) the Traffic Management (Surrey County Council) Permit Scheme Order 2015 (as varied); and</p> <p>(ii) the West Sussex County Council Permit Scheme Order 2016 (as varied); and</p> <p>(b) “the lane rental schemes” means the lane rental schemes approved by the Secretary of State under section 74A(2) of the 1991 Act in the following Orders as in force at the date on which this Order is made—</p> <p>(i) the Street Works (Charges for Occupation of the Highway) (Surrey County Council) Order 2021; and</p> <p>(ii) the Street Works (Charges for Occupation of the Highway) (West Sussex County Council) Order 2022.</p>		
169.	Articles 12(3), 14(4)(a), 16(2), 18(6), 22(3),22(4)(a), 24(4),	consent not to be unreasonably withheld or delayed	Wording deleted as discussed in response to DCO.2.9 in the Applicant's Response to ExQ2 – Development Consent Order and Control Documents (Doc Ref. 10.56.4). This is to address the JLAs' particular concern regarding deeming provisions in the draft DCO.	The Authorities welcome these amendments.

170.	Article 14 (temporary closure of streets)	(4) The undertaker must not temporarily close , alter, divert, prohibit the use of or restrict the use of any street—	Amended for consistency with the rest of article 14.	The Authorities have no comments in respect of this amendment.
171.	Article 17 (classification of roads, etc.)	<p>(3) From the date on which Work No. 35 (South Terminal Junction improvements) is completed and open for traffic, the roundabout circulatory carriageway at junction 9 of the M23 is to cease to have the classification of motorway and will instead be classified as a trunk road with an A- road classification as if it had become so by virtue of an order under section 10(2) of the 1980 Act.</p> <p>(4) Any prohibitions in respect of the circulatory carriageway at junction 9 of the M23 or accesses onto that junction that are made pursuant to article 18(3)(b) or (e) can include prohibitions on its access and use by pedestrians and other forms of non-motorised users as well as vehicles.</p>	<p>This drafting has been included at the request of National Highways because of the necessity to re-classify and to impose these restrictions on the circulatory carriageway as part of the authorised development, to ensure the ongoing safety of the strategic road network in this location.</p> <p>Please see paragraph 5.47 of the Explanatory Memorandum to the Draft DCO (Doc Ref. 2.2) for further information.</p>	The Authorities have no comments in respect of these amendments.
172.	Article 31 (time limit for exercise of authority to acquire land compulsorily)	(1) After the end of the period of ten seven years beginning on the start date— <i>Consequential amendments also made to article 33(1)(a)(ii), 34(8)(b) and 38(1).</i>	Amendment made as discussed in response to DCO.2.14 in the Applicant's Response to ExQ2 – Development Consent Order and Control Documents (Doc Ref. 10.56.4) as a compromise position with the JLAs.	The Authorities welcome these amendments.
173.	Article 40 (special	(4) The undertaker must implement the open space delivery plan approved by CBC under paragraph (1) and on the date	Amendment made for the reason included in row 165 above given the change in the limb of section 131 of the 2008 Act relied upon by the	The Authorities consider the principles behind the Applicant's amended approach to replacement open space are capable of addressing the

	category land)	on which the replacement land is laid out and provided in accordance with that plan, the replacement land is to vest in RBBC (if the replacement land is not already owned by RBBC) and is to be subject to the same rights, trusts and incidents as attached to the special category land previously in the ownership of RBBC.	<p>Applicant for the acquisition of special category land given that the JLAs do not wish to own the replacement land.</p> <p>The rest of article 40 and the processes it secures remain unchanged.</p>	<p>Authorities' concerns and so welcome the proposed deletion of the text from paragraph (4); however, the revised proposals will only be acceptable if the future maintenance of the replacement open space is assured indefinitely by the Applicant. Further detail on this point is set out in row 6.1 of the Authorities' post-hearing submission for CAH2.</p> <p>To address the maintenance point, the JLA maintain that the amendment suggested in their Consolidated Submission on the draft DCO [REP7-108] should be incorporated into the draft DCO, namely -</p> <p>(X) Provision must be made (whether in the relevant landscape and ecology management plan, the open space delivery plan submitted under paragraph (1) or otherwise) which ensures that the undertaker is responsible for the cost of and associated with the ongoing maintenance in perpetuity of the replacement land shown on the special category land plans with Plot number 1/013 (land west of Church Meadows) and comprising Work No. 40(c).</p>
174.	Article 56 (deemed consent)	(1) If an authority which receives a valid application for consent or approval to which this article applies fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the day after the application was made (or such longer period agreed in writing	Provided to ensure that an extension to the deemed consent time period can be agreed between the relevant authority and the undertaker if amenable to both parties.	The Authorities welcome these amendments.

		between the undertaker and the authority), it is deemed to have granted consent or approval (as relevant).		
175.	Article 56 (deemed consent)	<p>(5) Where an application for consent or approval to which this article applies is made, the fee contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as may be amended or replaced from time to time) is to apply and must be paid to the recipient authority for each application.</p> <p>(6) Any fee paid under paragraph (5) must be refunded to the undertaker within a period of 35 days of the application being rejected as invalidly made.</p>	<p>Included here as discussed in response to DCO.2.23 in the Applicant's Response to ExQ2 – Development Consent Order and Control Documents (Doc Ref. 10.56.4), to provide for the payment of a fee for applications for consent or approval under the articles of the draft DCO as well as the requirements.</p> <p>This responds to the JLAs' comments in, <i>inter alia</i>, their Response to REP5-072 [REP6-104] and their Post- Hearing Submission on Agenda Item 8: Draft Development Consent Order [REP6-110].</p>	<p>Regarding article 56(5), the Authorities welcome the principle of this amendment i.e. the consenting / approving authorities being paid for the work the Order requires them to do; however, they disagree that the quantum – as set out in the 2012 Regulations – is sufficient.</p> <p>As mentioned in previous submissions, the Authorities consider it would be appropriate for their costs of approving consents under articles and discharging (and responding to consultations on) requirements should be met, on a cost recovery basis, in a planning performance agreement. The Authorities have included a proposed requirement concerning the need for a planning performance agreement in Part B of this document.</p> <p>Regarding article 56(6), the Authorities consider this provision should be omitted. To reach a decision that an application is invalid will have required a discharging authority to do work and they should be paid for that work; they should not be punished financially if the Applicant submits an invalid application; it would be reasonable for the Applicant to be responsible for meeting that cost.</p>
176.	Schedule 1 (authorised development)	<i>Changes to work descriptions for Work Nos. 2, 3, 4, 6, 9, 14, 15, 18, 28, 41 and 43</i>	Amendments made for clarity, to correct drafting errors and to add additional detail that	The Authorities would make the following comments in respect of Work Nos. 28 and 41, which are largely based on the comments included

			<p>is otherwise contained in the Design Principles (Doc Ref. 7.3).</p> <p>These changes form part of the comprehensive exercise on design matters that the Applicant has undertaken following ISH 8, as described in the Appendix to its Response to Deadline 6 Submissions (Doc Ref. 58).</p>	<p>in the Authorities' Consolidated Submissions on the draft DCO [REP7-108] on these provisions – <u>Work No. 28</u></p> <p>The Authorities consider more detail is required in relation to the application's office and car park proposals, including (for example) limitations on parking space numbers. Owing to this, the Authorities consider Work No. 28 should be amended as follows –</p> <p>“Works associated with the Car Park H Site including works to—</p> <ul style="list-style-type: none"> (a) construct a hotel; (b) construct an office with provision for up to 5,000 square metres of office floor space; (c) construct a multi-storey car park with provision for no more than 3,700 parking spaces for cars; (d) demolish Car Park H; (e) external vehicle and pedestrian accesses”. <p><u>Work No. 41</u></p> <p>The Authorities note the changes made by GAL in the D7 draft DCO [REP7-006] to Work No. 41; however, they do not consider the amendments reflect the proposed works and consider the description should be recast as follows to better reflect the Applicant's proposals –</p> <p>“Works associated with land at Pentagon Field including works to—</p> <ul style="list-style-type: none"> (a) establish a temporary spoil receptor site; (b) permanently raise the ground level across the central part of Pentagon Field to create a raised spoil platform to a height of up to 4 metres above datum; (c) reinstate land by—
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				<ul style="list-style-type: none"> (i) reprofiling and reinstatement of grassland; (ii) planting of a native tree belt approximately 15 metres wide and [no less than 250 metres in length along the eastern boundary of Pentagon Field adjacent to Balcombe Road; (iii) planting of no less than 1 hectare of native woodland in the south east portion of the site".
177.	Schedule 2 (requirement, paragraph 1 interpretation)	Definition of "host authorities"	Order of authorities alphabetised	The Authorities have no comments in respect of this amendment.
178.	Requirement 2A (phasing scheme)	<p>(1) The authorised development must not commence until unless, no less than two months prior to the anticipated date of commencement, a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways.</p> <p>(2) The undertaker must review and make any necessary updates to the phasing scheme and submit that updated phasing scheme to the host authorities and National Highways:</p> <p>(a) no later than five three years from the date of commencement of the authorised development;</p>		<p><u>Requirement 2(1)</u> Regarding article 2A(1), the JLA disagree with the Applicant's statement that a two-month period is enough notice of what is expected and consider it an unreasonably short period. On a practical level, it would be difficult for the host authorities to get all necessary resources in place within 2 months (for instance, it is likely that additional planners will need to be recruited and owing to notice periods and the current nationwide difficulties in recruiting planners, it is unlikely CBC would be able to recruit a suitable person within 2 months). The host authorities consider a proper lead-in period to help deliver the Applicant's project is necessary, they want to be prepared to deal with applications and are concerned by the prospect of being unprepared when applications</p>

		<p>(b) at any time if the undertaker proposes a significant change to the contents or timing of the phases of construction in a previously submitted phasing scheme; and</p> <p>(c) no later than every five three years after the date of the most recent submission of a phasing scheme under this sub-paragraph (2), provided that the undertaker is not required to submit any further phasing scheme after the later of—</p> <p>(a) the fifteenth anniversary of the commencement of the authorised development;</p> <p>(b) the tenth anniversary of the commencement of dual runway operations; and</p> <p>(c) the fifth anniversary of the commencement of the later of Work No. 35 (South Terminal Junction improvements), Work No. 36 (North Terminal Junction improvements) or Work No. 37 (Longbridge Roundabout Junction improvements).</p>		<p>might be coming forward intensively. In the light of the above, the authorities consider that 6 months is a reasonable period and propose that Requirement 2(1) should be amended as follows -</p> <p>“The authorised development must not commence unless, no less than two six months prior to the anticipated date of commencement, a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways”.</p> <p><u>Remaining amendments</u> Subject to the inclusion of the amendments mentioned below, the Authorities are content with the remaining amendments made to Requirement 2A(2). (On a drafting point, the Authorities query whether the second set of sub-paragraphs (a), (b) and (c) should (to avoid confusion) instead be numbered (i), (ii) and (iii)).</p> <p>The Authorities maintain the position set out in their Consolidated submissions on the draft DCO [REP7-108] that the following provisions be included in Requirement 2A –</p> <p>(2A) A submission of an updated phasing scheme made to a host authority under sub-paragraph (2)(b) must be made to the host authority at least 3 months before the significant change in question is implemented unless otherwise agreed by the host authority in question.</p>
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				(2B) Where any requirement in this Schedule requires the submission to any of the host authorities of details or a document relating to the authorised development, the undertaker must provide to the host authority in question indicative timings for the submission of the relevant details or document in question at least 3 months before their submission unless otherwise agreed by the host authority in question.
179.	Requirement 4 (detailed design)	<p>(1) No part of the authorised development (except for the highway works and listed works) is to commence until CBC has been consulted on the design of that part, with this consultation to take place in the same manner as if taking place pursuant to paragraph F.2. of Part 8 of Schedule 2 to the 2015 Regulations (subject to sub-paragraph (6)).</p> <p>(2) Consultation under sub-paragraph (1) shall take place by—</p> <p>(a) the undertaker providing CBC with an explanatory note, drawings (where necessary) and a compliance statement regarding the design of the part in question; and</p> <p>(b) CBC providing its comments (if any) within 8 weeks beginning with the day after the information was provided to CBC pursuant to sub-paragraph (2)(a), unless a longer time period is agreed in writing between CBC and the undertaker.</p>	<p>These amendments to requirement 4 incorporate changes proposed by the JLAs at Deadline 6, including in their Response to the Applicant's Schedule of Changes to the dDCO [REP6-103] and the Joint Surrey Councils' Comments on any further information/submissions received by Deadline 5 [REP6-101].</p> <p>The amendments:</p> <ul style="list-style-type: none"> • Confirm the process to be followed for consultation under sub-paragraph 4(1), including the information to be submitted, rather than cross-referring to the 2015 Regulations • Provide for the submission of a compliance statement as part of consultation or an application for detailed design approval, detailing how the design details comply with the Design Principles (Doc Ref. 	<p>Notwithstanding the Authorities' concerns in respect of the number of works listed as "listed works" in Schedule 12 (see row 45 of the JLAs Consolidated Submissions on the draft DCO [REP7-108]), the Authorities are broadly content with the consultation regime set out in Requirement 4.</p> <p>Turning to the approval regime for listed works, the Authorities are concerned that the control document is not sufficiently detailed and that the Works Plans and Parameter Plans similarly lack detail. Moreover, the Authorities are concerned there is no scope for the type of information that a local planning authority would expect to be provided with, for instance, details in respect of the materials to be used, elevations, and information regarding sustainability. The Authorities consider the requirement should be amended to address these concerns and so propose that paragraphs (4) and (5) of Requirement 4 should be amended as follows –</p>

	<p>(3) Any part of the authorised development to which sub-paragraph (1) applies must be carried out in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.</p> <p>(4) No part of any listed works is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by—</p> <p>(a) for Work No. 40(a) (pedestrian footbridge over the River Mole), MVDC (in consultation with RBBC); and</p> <p>(b) for all other listed works, CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(5) The details referred to in sub-paragraph (4) must include an explanatory note and drawings (where necessary) and be accompanied by a compliance statement.</p> <p>(a) be in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate); and</p> <p>(b) demonstrate that in carrying out the part of the authorised development to</p>	<p>7.3) and the vertical and lateral limits in article 6 (limits of works).</p> <ul style="list-style-type: none"> • Provide for MVDC to be the discharging authority for the detailed design of Work No. 40(a) (pedestrian footbridge over the River Mole) and associated landscape and ecology management plans, as requested. 	<p>“(4) No part of any listed works is to commence the details referred to in sub-paragraph (5) for the layout, siting, scale and external appearance of the buildings and works, within that part have been submitted to and approved in writing by—</p> <p>(a) for Work No. 40(a) (pedestrian footbridge over the River Mole), MVDC (in consultation with RBBC); and</p> <p>(b) for all other listed works, CBC.</p> <p>(5) The details referred to in sub-paragraph (4) must include—</p> <p>(a) an explanatory note;</p> <p>(b) and drawings (where necessary) and be accompanied by</p> <p>(c) a compliance statement;—</p> <p>(d) details of layout, siting, scale, external appearance and levels (including existing and finished floor levels and ground levels);</p> <p>(e) a schedule of materials and finishes;</p> <p>(f) details of any associated structures;</p> <p>(g) access arrangements;</p> <p>(h) an operational lighting scheme for any works;</p> <p>(i) details of any construction and sustainability measures; and</p> <p>(i) where any works are subject to a design review in accordance with Annex A to Appendix 1 to the design and access statement—</p> <p>(i) the design approach;</p> <p>(ii) how the design principles have been incorporated into the final design; and</p>
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		<p>which the submitted details relate the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(6).</p> <p>(6) The relevant part of the listed works must be carried out in accordance with the details approved by CBC under sub-paragraph (4) unless otherwise agreed in writing with MVDC (in consultation with RBBC) or CBC (as relevant depending on which authority approved the details) (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(7) In this requirement “compliance statement” means a document that sets out how—</p> <p>(a) the part of the authorised development in question will be constructed in accordance with the design principles in appendix 1 of the design and access statement, unless otherwise agreed in writing with—</p> <p>(i) for a part to which sub-paragraphs (1) or (4)(b) apply, CBC; or</p> <p>(ii) for a part to which sub-paragraph (4)(a) applies, MVDC (in consultation with RBBC); and</p> <p>(b) in carrying out that part the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(6).</p>		<p>(iii) how the output of the design review process has been taken into account in the design presented for approval.”</p>
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		(5) Where consulted under sub-paragraph (1), CBC must provide its comments (if any) within 8 weeks beginning with the day after the information was submitted to CBC pursuant to sub-paragraph (1) (unless a longer time period is agreed between CBC and the undertaker).		
180.	Requirement 8 (landscape and ecology management plan)	(5) In respect of any landscape and ecology management plan for Work No. 40 (works associated with land to the north east of Longbridge Roundabout), the references in this requirement to “CBC” are to be read as “MVDC”.	Ensures that any landscape and ecology management plan submitted in respect of the land to the north east of Longbridge Roundabout, which is in MVDC's administrative area, will be discharged by MVDC. This responds to a request from MVDC in the Joint Surrey Councils' Comments on any further information/submissions received by Deadline 5 [REP6-101] .	The Authorities have no comments in respect of this amendment.
181.	Requirement 10 (surface and foul water drainage)	(1) No part of the authorised development involving surface or foul water drainage (except for the highway works and listed works) is to commence until CBC has been consulted on the drainage for that part, with this consultation to take place in the same manner as if taking place pursuant to paragraph F.2. of Part 8 of Schedule 2 to the 2015 Regulations (subject to sub-paragraph (6)). (2) Consultation under sub-paragraph (1) shall take place by— (a) the undertaker providing CBC with an explanatory note, drawings (where	These amendments accord with the changes made to requirement 4 (detailed design), explained above in row 179.	The following amendments accord with the changes proposed by the Authorities to requirement 4 (detailed design), explained above in row 179. “(4) No part of any listed works involving surface or foul water drainage is to commence until the details referred to in sub-paragraph (5) of the surface and foul water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).

	<p>necessary) and a compliance statement regarding the drainage of the part in question; and</p> <p>(b) CBC providing its comments (if any) within 8 weeks beginning with the day after the information was provided to CBC pursuant to sub-paragraph (2)(a), unless a longer time period is agreed in writing between CBC and the undertaker.</p> <p>(3) Any part of the authorised development to which sub-paragraph (1) applies must be carried out in accordance with the drainage design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.</p> <p>(4) No part of any listed works involving surface or foul water drainage is to commence until details of the surface and foul water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).</p> <p>(5) The drainage details approved pursuant to referred to in sub-paragraph (4) must include an explanatory note and drawings (where necessary) and be accompanied by a compliance statement be in accordance with the drainage design principles in appendix 1 of the design and access statement.</p>		<p>(5) The drainage details referred to in sub-paragraph (4) must include—</p> <ul style="list-style-type: none"> (a) an explanatory note (b) and drawings (where necessary) and be accompanied by (c) a compliance statement. (d) details of layout, siting, scale, external appearance and levels (including existing and finished floor levels and ground levels); (e) a schedule of materials and finishes; (f) details of any associated structures; (g) access arrangements; (h) an operational lighting scheme for any works; (i) details of any construction and sustainability measures; and (i) where any works are subject to a design review in accordance with Annex A to Appendix 1 to the design and access statement— <ul style="list-style-type: none"> (i) the design approach; (ii) how the design principles have been incorporated into the final design; and (iii) how the output of the design review process has been taken into account in the design presented for approval.”
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		<p>(6) The relevant part of the listed works must be constructed in accordance with the details approved under sub-paragraph (4) unless otherwise agreed in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).</p> <p>(7) In this requirement “compliance statement” means a document that sets out how the part of the authorised development in question will be constructed in accordance with the drainage design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.</p> <p>(5) Where consulted under sub-paragraph (1), CBC must provide its comments (if any) within 8 weeks beginning with the day after the information was submitted to CBC pursuant to sub-paragraph (1) (unless a longer time period is agreed between CBC and the undertaker).</p>		
182.	Requirement 20 (surface access)	<p>From the date on which the authorised development begins the operation of the airport must be carried out in accordance with the surface access commitments unless otherwise agreed in writing with CBC and National Highways (in consultation with Surrey County Council and West Sussex County Council).</p>	<p>This incorporates a request from the JLAs in their Response to the Applicant's Schedule of Changes to the dDCO [REP6-103].</p>	<p>The Authorities have no comments in respect of this amendment.</p>
182.	Requirement 23 (flood)	<p>(1) Prior to the commencement of the first of the floodplain works requiring prior</p>	<p>This accommodates the reversal in the JLAs' position on the appropriate discharging</p>	<p>Identifying the appropriate discharging authority for this requirement has proved challenging for</p>

	<p>compensation delivery plan)</p>	<p>mitigation, a flood compensation delivery plan setting out the timeframe for delivering the fluvial mitigation works must be submitted to and approved by West Sussex County Council CBC (in consultation with the Environment Agency). (2) The authorised development must be constructed in accordance with the flood compensation delivery plan referred to in sub- paragraph (1) unless otherwise agreed in writing with West Sussex County Council CBC (in consultation with the Environment Agency).</p>	<p>authority for this requirement, as set out in their Response to the Applicant's Schedule of Changes to the dDCO [REP6-103].</p>	<p>CBC and WSCC. On reflection, CBC and WSCC are content for CBC to discharge, provided WSCC as lead local flood authority is consulted beforehand.</p> <p>CBC and WSCC would therefore propose that Requirement 23 is amended as follows -</p> <p>(1) Prior to the commencement of the first of the floodplain works requiring prior mitigation, a flood compensation delivery plan setting out the timeframe for delivering the fluvial mitigation works must be submitted to and approved by CBC (in consultation with WSCC as lead local flood authority and the Environment Agency). (2) The authorised development must be constructed in accordance with the flood compensation delivery plan referred to in sub-paragraph (1) unless otherwise agreed in writing with CBC (in consultation with WSCC as lead local flood authority and the Environment Agency).</p>
<p>184.</p>	<p>Requirement 30 (site waste management plan)</p>	<p>(1) No part of tThe authorised development must notis to commence until a site waste management plan for that part has been submitted to and approved in writing by the relevant authority West Sussex County Council and Surrey County Council. (2) The site waste management plan submitted pursuant to sub-paragraph (1)</p>	<p>These amendments reflect changes made to the Construction Resources and Waste Management Plan (Doc Ref. 5.3.2) at Deadline 7 and provide greater specificity on the intended form that the site waste management plans submitted for approval and maintained by the undertaker during construction will take. The drafting has also been amended to ensure that site waste</p>	<p>WSCC are content with these amendments.</p>

		<p>must be substantially in accordance with include the form of sections A1, A2, A3 and A4 of Annex A to the construction resources and waste management plan.</p> <p>(3) Construction waste arising from the that part of the authorised development must be managed in accordance with the measures set out in the form of section A1 of the site waste management plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by the relevant authority West Sussex County Council and Surrey County Council.</p> <p>(4) A form of section A5 of Annex A to the construction resources and waste management plan must be maintained throughout the duration of the construction of that part of the authorised development and must be made available to the relevant authority upon request.</p> <p>(5) In this requirement, the “relevant authority” means, in respect of a part of the authorised development:</p> <p>(a) in West Sussex, West Sussex County Council;</p> <p>(b) in Surrey, Surrey County Council; and</p> <p>(c) partly in each of West Sussex and Surrey, West Sussex County Council (in consultation with Surrey County Council).</p>	<p>management plans can be submitted in respect of a part of the authorised development.</p>	
185.	New requirement 34	<p>Office Occupier 34. Work No. 28(b) (office at Car Park H site) must only be occupied by an entity</p>	<p>This requirement has been added for the reasons described in response to SE.2.10 of</p>	<p>The Authorities are content with this requirement.</p>

Legal Partnership Authorities

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	(office occupier)	related to, or whose business and/or operations are related to, the airport, air travel and/or aviation, unless otherwise agreed in writing by CBC.	the Applicant's Response to ExQ2 – Socio-Economic Effects (Doc Ref. 10.56.14).	
187.	Schedule 13 (Informative maximum parameter heights)	<i>Removal of references to an additional height restriction for "associated elements" regarding Work No. 28.</i>	Change made to reflect changes made to the Parameter Plans (Doc Ref. 4.7) at Deadline 7.	The Authorities have no comments in respect of this amendment.

PART B:

List of Proposed Amendments to the dDCO submitted by the Applicant at Deadline 7 [REP7-005]

Introduction

The table below sets out the Legal Partnership Authorities' suggestions for amendments to the dDCO as at Deadline 8. It is intended to assist the ExA in its consideration of the amendments which it is proposing to publish on 14 August 2024. The ExA will note that the table below represents an updated version of *Part C to the Legal Partnership Authorities' Deadline 7 Submission "Consolidated Submissions on the dDCO"* [REP7-108] and demonstrates that some progress has been made in narrowing the differences between the parties positions on some issues.

For the avoidance of doubt, the Authorities consider that all of the amendments listed below should be included in the ExA's recommended DCO which would accompany its Recommendation Report.

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
1.	Art. 2(1) Interpretation	<p>Definition of “commencement”</p> <p>Alternative A</p> <p>“commence” means the carrying out of any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part, or carried out for the purposes, of the authorised development other than operations consisting of—</p> <p>(a) remedial work in respect of any contamination or adverse ground conditions;</p> <p>(b) environmental (including archaeological) surveys and investigation;</p> <p>(c) investigations for the purpose of assessing ground conditions;</p> <p>(d) site or soil surveys;</p> <p>(e) erection of fencing to site boundaries or marking out of site boundaries;</p> <p>(f) removal of hedgerows, trees and shrubs;</p> <p>(g) installation of amphibian and reptile fencing;</p> <p>(h) the diversion or laying of services;</p> <p>(i) ecological mitigation measures;</p>	<p>There has been no proper explanation in the EM or in the control documents (including the CoCP) of the reasons for and the extent of each of the types of operation listed.</p> <p>Some types of operations (particularly those in paragraphs (k), (m), (n) and (o) have the potential to be significant and long lasting.</p> <p>The issue for the Authorities is the lack of control that they will have over what are likely to be significant aspects of the development.</p> <p>Two alternatives have been provided: A - removing those operations from the definition of commencement entirely and B - requiring the consent of the Authorities before any of these activities could begin.</p> <p>If A were to be recommended, then the significant construction sites could be listed as numbered works, as happened in the Sizewell DCO.</p>	<p>The Authorities welcome the Applicant’s further detail on these points, particularly in the updated COCP.</p> <p>As mentioned previously, the Authorities main concerns are with the potential impacts of the works that fall within paragraphs (k), (m), (n) and (o).</p> <p>Regarding (m), the establishment of construction compounds, the Authorities welcome paragraph 5.4.14 of the COCP which states -</p> <p>“Temporary construction compounds will be reinstated to their previous use and habitats will be restored to their existing ecological value (as a minimum)”.</p> <p>The Authorities consider the COCP should include similar commitments in respect of the following paragraphs and would be grateful if the Applicant could confirm the COCP will be updated accordingly –</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>(j) receipt and erection of construction plant and equipment; (k) erection of temporary buildings and structures; (l) site preparation and site clearance; (m) establishment of construction compounds; (n) establishment of temporary haul roads; and (o) the temporary display of site notices, advertisements or information, and “commencement” and “commenced” are to be construed accordingly;</p> <p>Alternative B</p> <p>Insert the following new requirement:</p> <p>Pre-commencement operations</p> <p>(XX).—(1) No operation listed in subparagraphs (k), (m) and (o) of the definition of “commence” may be carried out without the consent of the local planning authority, following consultation with the local highway authority.</p>		<p>(k) erection of temporary buildings and structures;</p> <p>(m) establishment of construction compounds; (n) establishment of temporary haul roads; and (o) the temporary display of site notices, advertisements or information,</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(2) No operation listed in sub-paragraph (n) of the definition of “commence” may be carried out without the consent of the local highway authority, following consultation with the local planning authority.</p> <p>(3) All operations listed in sub-paragraphs (a) to (n) of the definition of “commence” must be carried out in accordance with the code of construction practice.</p> <p>(4) Consent under this requirement must not be unreasonably withheld.</p>		
2.	Art. 2(9) Interpretation	<p>(9) References in this Order to materially new or materially different environmental effects in comparison with those reported in the environmental statement must not be construed so as to preclude the undertaker from avoiding, removing or reducing an adverse environmental effect that was reported in the environmental statement.</p>	<p>See reasoning in West Sussex Authorities LIR Appendix M [REP1-068]</p> <p>This appears to be unprecedented. An explanation has been added to the EM. It appears to be a limitation on the “not materially different” test that, as the explanatory memorandum [REP6-007] says, has become commonplace in DCOs.</p>	<p>The Authorities are no longer pursuing the deletion of article 2(9) and have no objection to it being included in the draft DCO.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
3.	Art. 2(10) Interpretation	(10) In this Order, the expression “includes” mayis to be construed without limitation, unless so construing would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.	See related comment above. Ensures compliance with Rochdale Envelope.	The Authorities are no longer pursuing this amendment to article 2(10).
4.	Art. 9(4) Planning Permission	<p>Alternative A</p> <p>Delete paragraph (4)</p> <p>(4) Any conditions of any planning permission granted prior to the date of this Order that are incompatible with the requirements of this Order or the authorised development shall cease to have effect from the date the authorised development is commenced and for the purpose of this fees article planning permissions deemed to be granted pursuant to the 2015 Regulations shall be deemed to be granted prior to the date of this Order.</p> <p>Alternative B</p>	<p>Article 9(4) does not appear to be precedented in any made DCO.</p> <p>It is widely drafted and catches any incompatible planning conditions, but no such conditions are identified.</p> <p>The Authorities have concerns about some existing planning conditions in particular and wish to avoid any doubt and later argument about whether they be overridden.</p> <p>In alternative B, the Authorities are examining the planning history to finalise a list of conditions which they consider should be preserved for the avoidance of doubt, and will seek to agree them with the Applicant.</p>	<p>Alternative A</p> <p>The Authorities note that, in the latest version of Appendix A to the Planning Statement [REP7-057], the Applicant has identified (in paragraph 1.2.2) two conditions from “the 1979 Permission” [i.e. planning permission CR/125/1979] as “inconsistent with the Project” namely –</p> <p>“Condition 3 restricts the use of the emergency runway to times when the main runway was temporarily not in operation; and</p> <p>Condition 4 requires the western noise mitigation bund to remain in place”.</p> <p>Paragraph 1.2.3 states: “These restrictions are the only inconsistent conditions that the Applicant is aware of”.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>(4) Subject to paragraphs (5), (6) and (7), any conditions of any planning permission granted prior to the date of this Order that are incompatible with the requirements of this Order or the authorised development shall cease to have effect from the date the authorised development is commenced and for the purpose of this article planning permissions deemed to be granted pursuant to the 2015 Regulations shall be deemed to be granted prior to the date of this Order.</p> <p>(5) The undertaker must, before commencement of any development under this Order, use reasonable endeavours to identify any conditions that would cease to have effect under paragraph (4).</p> <p>(6) if the undertaker identifies any conditions under paragraph (5), the undertaker must notify the relevant planning authority and use reasonable endeavours to notify any person who might be adversely affected by the condition ceasing to have effect.</p>		<p>The Authorities do not disagree with this analysis. Owing to the fact the Applicant and Authorities consider only two conditions are inconsistent with the DCO application, the Authorities would suggest that the Applicant’s proposed paragraph (4) (which the Authorities considered should be deleted at D7) should be amended as follows -</p> <p>“(4) Any conditions Conditions 3 and 4 of any planning permission CR/125/1979, granted prior to the date of this Order that which are incompatible with the requirements of this Order or the authorised development, shall cease to have effect from the date the authorised development is commenced and for the purpose of this article planning permissions deemed to be granted pursuant to the 2015 Regulations shall be deemed to be granted prior to the date of this Order.”</p> <p>If this amendment were made, the new paragraph (5) which was introduced by the Applicant at D7 [REP7-006], should be deleted as it would no longer be necessary (because paragraph (5) concerns a notification point which would fall away in the light</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8															
	Provision	Amended Text	Explanation																
		<p>(7) Paragraph (4) does not apply to the conditions listed in column (1) of the table in Schedule [X] (conditions excepted from article 9(4)) of the planning permissions listed in column (2) of that table.</p> <p style="text-align: center;">New Schedule</p> <p style="text-align: center;">SCHEDULE [X] CONDITIONS EXCEPTED FROM ARTICLE 9(4)</p> <table border="1" data-bbox="556 954 1153 1151"> <thead> <tr> <th data-bbox="556 954 870 1070">(1) Condition</th> <th data-bbox="876 954 1153 1070">(2) Planning Permission</th> </tr> </thead> <tbody> <tr> <td data-bbox="556 1073 870 1109">[TBC]</td> <td data-bbox="876 1073 1153 1109">[TBC]</td> </tr> <tr> <td data-bbox="556 1112 870 1148"></td> <td data-bbox="876 1112 1153 1148"></td> </tr> </tbody> </table>	(1) Condition	(2) Planning Permission	[TBC]	[TBC]				<p>of the Authorities’ proposed amendments to paragraph (4)).</p> <p><u>Alternative B</u></p> <p>The Authorities have considered the planning permissions which affect the airport. If this drafting is retained, the Authorities consider the following conditions should be excepted from article 9(4) because they are not incompatible under paragraph (4) and so, for the avoidance of doubt, should be preserved -</p> <p style="text-align: center;">New Schedule</p> <p style="text-align: center;">SCHEDULE [X] CONDITIONS EXCEPTED FROM ARTICLE 9(4)</p> <table border="1" data-bbox="1814 1112 2478 1406"> <thead> <tr> <th data-bbox="1814 1112 2010 1180">Condition</th> <th data-bbox="2016 1112 2279 1180">Planning permission</th> <th data-bbox="2284 1112 2478 1180">Site address</th> </tr> </thead> <tbody> <tr> <td data-bbox="1814 1183 2010 1308">3</td> <td data-bbox="2016 1183 2279 1308">CR/2020/0707/NCC</td> <td data-bbox="2284 1183 2478 1308">Hampton by Hilton, Longbridge House</td> </tr> <tr> <td data-bbox="1814 1312 2010 1406">8</td> <td data-bbox="2016 1312 2279 1406">CR/2019/0802/FUL</td> <td data-bbox="2284 1312 2478 1406">Bloc Hotel, South Terminal</td> </tr> </tbody> </table>	Condition	Planning permission	Site address	3	CR/2020/0707/NCC	Hampton by Hilton, Longbridge House	8	CR/2019/0802/FUL	Bloc Hotel, South Terminal
(1) Condition	(2) Planning Permission																		
[TBC]	[TBC]																		
Condition	Planning permission	Site address																	
3	CR/2020/0707/NCC	Hampton by Hilton, Longbridge House																	
8	CR/2019/0802/FUL	Bloc Hotel, South Terminal																	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO					
	Provision	Amended Text	Explanation	Updated Position Deadline 8		
				9	CR/2019/0802/FUL	Bloc Hotel, South Terminal
				11	CR/2017/0116/FUL	Boeing Hangar
				25	CR/2017/0116/FUL	Boeing Hangar
				9	CR/2011/0620/FUL	Pollution Control Lagoon
				9	CR/2011/0014/FUL	Sofitel London Gatwick
				10	CR/2011/0014/FUL	Sofitel London Gatwick
				1	CR/2010/0396/NCC	Runway Shoulders
				5	CR/2009/0326/FUL	North Terminal
				4	CR/2002/0865/FUL	Travel Inn, Longbridge Road
				8	CR/1999/0243/FUL	Jetset House and Compound Adjacent to Perimeter Road South
				4 and 5	CR/1997/0138/FUL	Car Park Z, Southern

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO													
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8									
				<table border="1"> <tr> <td></td> <td></td> <td>Perimeter Area</td> </tr> <tr> <td>9</td> <td>CR/1997/311/FUL</td> <td>Computer Centre, Buckingham Gate</td> </tr> <tr> <td>11 and 12</td> <td>CR/127/1979</td> <td>Outline application for Airport Passenger Terminal and associate access</td> </tr> </table>			Perimeter Area	9	CR/1997/311/FUL	Computer Centre, Buckingham Gate	11 and 12	CR/127/1979	Outline application for Airport Passenger Terminal and associate access
		Perimeter Area											
9	CR/1997/311/FUL	Computer Centre, Buckingham Gate											
11 and 12	CR/127/1979	Outline application for Airport Passenger Terminal and associate access											
5.	Art. 9(5) Planning permission	<p>(5) Subject to paragraph (6), nothing in this Order restricts any person from seeking or implementing, or the relevant planning authority from granting, planning permission for development within the Order limits.</p> <p>(6) No person may implement deemed planning permission—</p>	<p>There are some particular cases, namely where land is to be used for ecological mitigation, where it would be inappropriate and unnecessary for airport related permitted development rights to remain available. Proposed paragraphs (6)(a), (b) and (c) are intended to achieve that protection and (d) would provide further protection for Pentagon Field.</p>	<p>Please see the Authorities’ latest position on the application of article 9 to permitted development rights, as set out in the Authorities’ Post Hearing Submission on ISH9 which is submitted at Deadline 8. The relevant text is next to the “Surface Access” column and under the sub-heading “Oral Submissions on the removal of permitted development rights relating to the provision of additional car parking”.</p>									

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(a) for any development within the area of Work No. 34(c) (replacement open space at Car Park B South and Car Park B North);</p> <p>(b) for any development within the area of Work No. 38 (Museum Field habitat enhancement area and flood compensation area);</p> <p>(c) for any development within that part of the area of Work No. 41 (Pentagon Field ecological area) which comprises the planting described in paragraphs (a) and (b) of that work;</p> <p>(d) for any development comprising a car park or any development of more than [TBC] metres in height, within any part of the area of Work No. 41 (Pentagon Field ecological area) which does not comprise the planting described in paragraphs (a) and (b) of that Work;</p>	<p>More generally, the Authorities are concerned that leaving the Applicant with uncontrolled permitted development rights to provide car parking, in addition to the parking proposed in the DCO, increases unnecessarily the risk of the mode share commitments in the Surface Access Commitments being breached. This would be a particular concern were the Environmentally Managed Growth proposals not to be included in the DCO. Proposed paragraph (6)(e) would remove PD rights for airport related parking within the Order limits.</p> <p>The Authorities are in discussions with the Applicant on the Surface Access Commitments and if a satisfactory conclusion can be reached then proposed paragraph (6)(e) could be dropped.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(e) for any development comprising a car park on any other operational land within the Order limits.</p> <p>(6) In this article—</p> <p>(a) “deemed planning permission” means permission which would be deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations;</p> <p>(b) “initiate” means when development of land shall be taken to be begun as per section 56 (time when development begun) of the 1990 Act, and “initiated” and “initiation” are defined accordingly; and</p> <p>(c) “planning permission” means planning permission granted under the 1990 Act including deemed planning permission deemed to be granted under article 3</p>		

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
		(permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations.		
6.	Art 10(3) Application of the 1991 Act	<p>(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—</p> <p>(a) section 56 (directions as to timing)(c);</p> <p>(b) section 56A (power to give directions as to placing of apparatus)(d);</p> <p>(c) section 58 (restrictions following substantial road works)(e);</p> <p>(d) section 58A (restriction on works following substantial street works)(f);</p> <p>(e) section 73A (power to require undertaker to re-surface street)(g);</p> <p>(f) section 73B (power to specify timing etc. of re-surfacing)(h);</p> <p>(g) section 73C (materials, workmanship and standard of re-surfacing)(i);</p> <p>(h) section 77 (liability for cost of use of alternative route);</p>	<p>See West Sussex Authorities LIR Appendix M [REP1-068]</p> <p>Some of these amendments may not be required by the Authorities if provision can be made in the DCO relating to permit schemes and lane rentals (see later on those subjects).</p> <p>In particular, it is important that section 56 of NRSWA must not be disapplied if the permit scheme article is not included.</p> <p>There have been discussions between the Applicant and the Authorities on the permit schemes, and the Authorities will consider any amendments put forward by the Applicant at D7 on permit schemes with a view to resolving them if the Applicant puts forward (as is</p>	<p>The Authorities note the amendments made by the Applicant to article 10 at Deadline 7 [REP7-006]. As stated in row 168 of the Authorities' D8 response to the Applicant's D7 Schedule of Changes, the Authorities are content with these amendments (see Part A of this document), save for the following drafting amendment –</p> <p>Paragraph (7) states the permit and land rental schemes "... will be used by the undertaker in connection with the exercise of any powers conferred by [Part 3 of the DCO]".</p> <p>The Authorities would expect to see "must be used" rather than "will be used" (because "will be" raises the question "when will it be used?" and so creating uncertainty; there is no such uncertainty with "must be used").</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(i) section 78A (contributions to costs of re-surfacing by undertaker)(j); and (j) Schedule 3A (restriction on works following substantial street works)(k).</p>	<p>expected) amendment relating to the permit schemes at D7.</p>	
7.	Art. 11 Street works	<p>11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule [X] (streets subject to street works) as are within the Order limits and may—</p> <p>Together with:</p> <p>(4) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, the undertaker may, for the purposes of the authorised development, enter on so much of any other street within the Order limits, for the purposes of carrying out the works set out at paragraph (1) above.</p> <p>And a list of streets to be set out in a schedule</p>	<p>The Authorities note that in question DCO.2.8, the ExA asked the Applicant to provide a schedule of the streets affected by Art.11 in lieu of ‘any of the streets as are within the Order limits’.</p> <p>This is also a suggestion made by the Authorities, and they will await to comment on the Applicant’s drafting.</p>	<p>The Authorities note the Applicant has not provided a schedule of streets and would therefore suggest that the street works powers proposed under article 11 should be subject to the street authority’s consent. Absent any consent provision, there is a risk of streets being interfered with at inappropriate times which would be detrimental to the undertaker and street authority. The Authorities would therefore propose that article 11 should be amended as follows –</p> <p>11.—(1) The undertaker may, for the purposes of the authorised development and subject to the consent of the street authority, enter on so much of any of the streets as are within the Order limits and may—</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>Or if a list of streets is not included, the Councils propose the following:</p> <p>11.—(1) The undertaker may, for the purposes of the authorised development and subject to the consent of the street authority, enter on so much of any of the streets as are within the Order limits and may—</p>		
8.	Art. 18 Traffic regulations	<p>New paragraph</p> <p>(7A) The instrument referred to in paragraph (7)(a) must be displayed by the applicant on its website and a copy must be sent to—</p> <p>(a) [email address] in the case of Surrey County Council;</p> <p>(b) [email address] in the case of West Sussex County Council.</p>	<p>This is to ensure that the traffic authorities are provided with copies of the “instrument” which gives effect to any traffic regulation measures made by the Applicant under art. 18 (1), (2) or (3), and that the public can see them too.</p>	<p>The Authorities maintain their position in respect of this proposed new paragraph.</p>
9.	Art. 25	<p>(5) In this article “hedgerow” means a hedgerow within the meaning of has the same</p>	<p>See the Authorities’ response to EXQ DCO.2.1.2 at D7</p>	<p>The Authorities maintain their position in respect of the proposed amendments to this article.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
	Felling or lopping of trees and removal of hedgerows	<p>meaning as in the Hedgerow Regulations 1997 and which are listed in Schedule [X] and shown on the hedgerow plan.</p> <p>In article 2 (interpretation) a new definition:</p> <p>“the hedgerow plan” means the plan certified as such by the Secretary of State under article 52 (certification of documents);</p> <p>In article 52 (certification of documents, etc), a new entry referring to the hedgerow plan</p> <p>A new Schedule listing the hedgerows: this could be based on the drafting in, for example, Schedule 16 to the Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024</p>		
10.	Art. 31 Time limit for exercise of authority to	31.—(1) After the end of the period of 7 ^{ten} years beginning on the start date— (a) no notice to treat is to be served under Part 1 of the 1965 Act; and	Although the Authorities remain of the view that 7 years plus the “start date” is a highly unusual length of time (and there are particular concerns about the potential sterilisation of the	The Applicant made this amendment to the draft DCO at Deadline 7 [REP7-006] and the Authorities welcome the amendment. (Consequential amendments, which are also welcomed, were made to articles 33(1)(a)(ii), 34(8)(b) and 38(1)).

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
	acquire land compulsorily	(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 34 (application of the 1981 Act and modification of the 2017 Regulations), in relation to any part of the Order land.	Bayhorne Farm proposals), they are prepared to agree to a reduction from 10 to 7 years.	
11.	Art. 40 Special category land	<p>New paragraph:</p> <p>(3) Provision must be made (whether in the relevant landscape and ecology management plan, the open space delivery plan submitted under paragraph (1) or otherwise) which ensures that the undertaker is responsible for the cost of and associated with the ongoing maintenance in perpetuity of the replacement land shown on the special category land plans with Plot number 1/013 (land west of Church Meadows) and comprising Work No. 40(c).</p>	<p>The circumstances that arise here are unusual.</p> <p>Under the current version of the DCO, the Applicant intends to acquire the special category land at Church Meadows using (s131(4)(b) of the Planning Act 2008). Doing so requires the provision of replacement land.</p> <p>The special category land to be acquired is in the area of RBBC. However, the replacement land is located in the area of MVDC. Under s131(4), the replacement land must have been or will be vested in the “prospective seller” (ie RBBC) and subject to the same rights, trusts and incidents as attach to the order land.</p> <p>RBBC are reluctant to accept ownership of open space land outside their area and</p>	<p>The Authorities maintain their position in respect of this proposed new paragraph.</p> <p>As mentioned in row 173 of the Authorities’ D8 Response to the Applicant’s Schedule of Changes to the draft DCO [REP7-004], the Authorities welcome the deletion of the text which is proposed for deletion from article 40(4).</p> <p>Further detail on the Authorities’ position in respect of the maintenance of the replacement open space land is set out in row 6.1 of the Authorities’ D8 post-hearing submission on CAH2.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
			<p>continue to have the financial responsibility of maintaining it. Similarly MVDC do not want that responsibility.</p> <p>In order to address this issue, the Authorities understand that the Applicant is intending to submit amendments to the DCO at D7. The replacement land will still be maintained as open space but the obligation to do so will be placed, in the first instance, on the Applicant, secured in the relevant LEMP.</p> <p>The Authorities will consider the changes (including any changes to the OLEMP) made at D7, but in the meantime put forward their own amendment which would ensure ongoing maintenance of the land by the Applicant is assured.</p>	
12.	Art. 49 Defence to proceedings in respect of	49.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph	Dealing first with the general position, the Applicant has explained in its explanatory memorandum [REP6-007] that in its view the incorporation of article 49 imposes a high	The Authorities maintain their position in respect of these proposed amendments.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
	statutory nuisance	<p>(c), (d), (e), (fb), (g), (ga) and (h) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—</p> <p>(a) relates to premises used by the undertaker for the purposes of or in connection with the construction, or maintenance or operation of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with—</p> <p>(i) a notice served under section 60 (control of noise on construction sites) of the Control of Pollution Act 1974; or</p> <p>(ii) a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(b); or</p> <p>(b) is a consequence of the construction, maintenance or operation of the authorised development and that it cannot reasonably be avoided.</p>	<p>standard on the undertaker – notably higher than section 158 of the Planning Act 2008 (Nuisance: statutory authority) - by referring to the CoPA processes and specifying that the nuisance must not have been reasonably avoidable.</p> <p>The Authorities’ understanding of the Applicant’s position is that including more of the paragraphs of section 79(1) of EPA 1990 within the scope of article 49 somehow increases the protection afforded to those potentially affected by statutory nuisances arising from the development. The Authorities consider that this is a misunderstanding of the position.</p> <p>Article 49 is not included to provide additional protection, it is included because sections 79 to 82 of EPA 1990 (and all the controls they contain) are not being disapplied under the DCO, they would therefore take effect despite section 158 of the 2008 Act, and the Applicant would therefore be potentially liable to prosecution under section 82 of EPA. Article 49</p>	

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	Provision	Amended Text	Explanation	
			<p>provides the Applicant with additional defences against prosecution. In most cases, the defence of “best practical means” is available (s.82(9)) - but no others. Article 49 replaces the best practical means defence with a weaker “cannot reasonably be avoided” defence.</p> <p>Therefore the starting point, so far as the Authorities is concerned, is that the number of paragraphs of s.79(1) to be included with the scope of article 49 should be limited, and the Applicant should justify each one individually.</p> <p>Turning to some of the individual paragraphs:</p> <p>The Applicant has sought to explain (in the response to ExA Q1 DCO.1.37 [REP3-089]) the inclusion of the individual paragraphs of section 79(1) and that that the code of construction practice will provide sufficient environmental controls.</p> <p>The COCP does not, of course, apply to the operation of the airport, and it is very unusual</p>	

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	Provision	Amended Text	Explanation	
			<p>for DCOs to refer to “operation” in this article. Notably it is not included in either Manston or Luton.</p> <p>The applicant seeks to justify the inclusion of subsection 79(1)(c) (fumes or gases emitted from premises) by saying that by subsection 79(4) it only applies to emissions from private dwellings. In that case, there is no need to disapply it.</p> <p>It is also difficult to see where circumstances under subsection 79(1)(d) (dust, steam, smell or other effluvia arising on industrial, trade or business premises) would arise, and even if they did, and action was taken, the defence of best practical means would be available.</p> <p>The position is similar in relation to (fb) (artificial light emitted from premises), which by virtue of s.79(5B) does not apply to artificial light emitted from an airport. Again, no need to double disapply something which already doesn't</p>	

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			<p>apply, if the Applicant is concerned about liability under s.79 for airport premises.</p> <p>The applicant says that (ga) (noise emitted from a vehicle, machinery or equipment in a street) does not apply to noise made by traffic. It is unclear how that justifies the disapplication of the provision.</p> <p>There is no other specific justification for the disapplication of the other paragraphs in the explanatory memorandum of SoCG, only reliance on a very small number of DCO precedents, which are not representative of airport development. The only made airport DCO precedent (Manston) disapplies paragraph (g) and does not extend to the operation of the authorised development. In the draft Luton DCO, only paragraphs (d), (e), (g) and (ga) would be excluded in the equivalent provision, and it also does not apply to operation of the authorised development.</p>	

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No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
13.	Schedule 1 Authorised Development	Work No. 18	<p>No specific amendments are shown to the work itself but as the Authorities mentioned in their post hearing submissions on agenda item 8 of ISH8 [REP6-110], there is greater detail required about the sequencing of these works and in particular about (a) the inclusion of noise mitigation in the period between removal of the existing bund and the construction of the replacement bund and (b) uncertainty about the acoustic effectiveness of the bund.</p> <p>Further detail is in the Authorities’ ExQ1 response reference NV1 and NV2 [REP4-068] and in [REP3-135] DCO 1.38 Works 18. The issue is not just the gap in acoustic provision when the existing bund is removed but also uncertainty about the acoustic effectiveness of the bund.</p> <p>An amendment to requirement 32 (western noise mitigation bund) is suggested below.</p>	<p>The Authorities maintain the position set out at Deadline 7.</p> <p>Moreover (and in addition to the amendment to requirement 32 mentioned below) the Authorities consider that, in order to prevent the residents of Charlwood from being exposed to unmitigated noise emissions due to engine testing during the carrying out of Work No.18(a) and 18(b), engine testing during the carrying out of those works should be controlled. The Authorities would propose the following requirement as a means of controlling engine testing during the carrying out of Work No.18(a) and 18(b) -</p> <p>“During the carrying out of Work No.18(a) and 18(b), no engine testing may take place at the Taxiway Juliet West Spur as shown on Figure 5.2.1A of the Project Description Figures of the Environmental Statement, unless otherwise agreed in writing by CBC”.</p>
14.		Work No. 22	Generally, the Authorities consider that more detail is required in relation to the car park,	The Authorities maintain their position and consider this amendment should be made.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>Works associated with the North Terminal building including works to—</p> <ul style="list-style-type: none"> (a) extend the International Departure Lounge on levels 20, 30 and 40 to the north; (b) extend the International Departure Lounge on levels 10, 20 and 30 to the south; (c) extend the baggage hall and baggage reclaim; (d) construct the North Terminal autonomous vehicle station; (e) construct the autonomous vehicle maintenance building; (f) reconfigure internal facilities; (g) construct a multi-storey car park with provision for no more than 890 parking spaces for cars; (h) demolish the CIP building and circulation building; (i) remediate the coaching gates. 	<p>hotel and office accommodation elements of the development, and including limitations on parking space numbers, guest bedroom spaces and office floor areas is a reasonable minimum expectation.</p> <p>In relation to hotels, the Authorities have suggested a new requirement (see later in this document) which would impose controls on the type of parking that could be provided.</p>	
15.		<p>Work No. 28 Works associated with the Car Park H Site including works to—</p> <ul style="list-style-type: none"> (a) construct a hotel; 	See general comment above	The Authorities maintain their position and consider these amendments should be made.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		(b) construct an office with provision for up to 5,000 square metres of office floor space; (c) construct a multi-storey car park with provision for no more than 3,700 parking spaces for cars; (d) demolish Car Park H; (e) external vehicle and pedestrian accesses.		
16.		Work No 29. Works to convert Destinations Place office into a hotel with provision for up to 250 bedrooms and refurbishment of the building exterior.	See general comment above	The Authorities maintain their position and consider this amendment should be made.
17.		Work No. 30 Works to construct Car Park Y including— (a) earthworks and works to construct an attenuation storage facility with a capacity of approximately 32,000m ³ ; (b) construction of a multi-storey car park with provision for no more than 3,035 parking spaces for cars.	See general comment above	The Authorities maintain their position and consider this amendment should be made.
18.		Work No. 31 Works associated with Car Park X including— (a) earthworks and landscaping;	See general comment above	The Authorities maintain their position and consider this amendment should be made.

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
		(b) construction of a flood compensation area with a capacity of approximately 55,000m ³ ; (c) construction of an outfall structure; (d) access improvements; (e) deck parking provision with provision for no more than 3,280 parking spaces for cars, including a re-provision of Purple Parking and surface parking amendments. (f) surface parking amendments.		
19.		Work No. 32 Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure with provision for no more than 1,680 parking spaces for cars if Work No. 44 (wastewater treatment works) is not implemented or 2,842 parking spaces for cars if Work No. 44 is implemented.	See general comment above The numbers being provided on this site depend on whether Work 44 (project change 4 water treatment works) is delivered. The parameter plans for the site are so generous that the additional displaced surface parking from Work 44 can be accommodated.	The Authorities maintain their position and consider this amendment should be made.
20.		Work No. 33 Works associated with the existing Purple Parking car park including— (a) removal of existing decked car parking structure;	See general comment above	The Authorities maintain their position and consider this amendment should be made.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		(b) partial removal of existing surface car parking; (c) erection of a fenceline; (d) re-configuration of remaining surface level car parking with provision for no more than 700 parking spaces for cars.		
21.		Work No. 38 Works to construct the habitat enhancement area and flood compensation area at Museum Field including works to— (a) construct a flood compensation area with a capacity of approximately 57,600m ³ ;52 (b) extend Gatwick greenspace footpath; (c) construct a maintenance access road; (d) undertake earthworks, landscaping and a bund (up to 6 metres in height above datum) around the southern and eastern perimeter; (e) construct footbridge; (f) construct two farm access bridges.		The Authorities maintain their position and consider this amendment should be made.
22.		Work No. 41	In the case of Work No. 41, the Authorities consider that far more detail about the scale and location of the spoil bunds needs to be	<u>Work No. 41</u> The Authorities note the changes made by GAL in the D7 draft DCO [REP7-006] to Work No. 41;

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>Works associated with land to create an ecological area at Pentagon Field including works to—</p> <p>(a) establish a temporary spoil receptor site;</p> <p>(b) permanently raise the ground level across the central part of Pentagon Field to create a raised spoil platform to a height of up to 4 metres above datum;</p> <p>(c) reinstate land by— (i) reprofiling and reinstatement of grassland; (ii) planting of a native tree belt approximately 15 metres wide and [TBC] long along the eastern boundary of Pentagon Field adjacent to Balcombe Road; (iii) [other planting elements to be confirmed – it is currently unclear where and what the planting works listed in Works 41 comprise.]</p> <p>(a) deliver approximately 1ha of planting; (b) plant a tree belt approximately 15 metres length;</p>	<p>provided in the description of works and in the control documents, and that the bunds (which should be described as land raising) should be referred to in the parameter plans (see amendment to Schedule 13 below).</p> <p>CBC will seek to engage in discussions with the Applicant over the detailed wording including those words in square brackets.</p>	<p>however, they do not consider the amendments reflect the proposed works and consider the description should be recast as follows to better reflect the Applicant’s proposals. (The drafting below is an updated version of the drafting submitted by the Authorities submitted at D7 with updated text shown red) –</p> <p>“Works associated with land at Pentagon Field including works to—</p> <p>(a) establish a temporary spoil receptor site;</p> <p>(b) permanently raise the ground level across the central part of Pentagon Field to create a raised spoil platform to a height of up to 4 metres above datum;</p> <p>(c) reinstate land by—</p> <p style="padding-left: 20px;">(i) reprofiling and reinstatement of grassland;</p> <p style="padding-left: 20px;">(ii) planting of a native tree belt approximately 15 metres wide and no less than 250 metres in length along the eastern boundary of Pentagon Field adjacent to Balcombe Road;</p> <p style="padding-left: 20px;">(iii) planting of no less than 1 hectare of native woodland in the south east portion of the site”.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
		(c) create spoil bunds.		
23.		<p>Work No. 43 Works to construct water treatment works including—</p> <ul style="list-style-type: none"> (a) 6 reed beds, surrounded by embankments and suitable boundary treatment; (b) associated plant, equipment and machinery; (c) maintenance access; (d) a cabin, secure storage unit and the re-provision of the car parking for Gatwick Greenspace Partnership parking. 	See general comment above	The Authorities note the changes made by GAL in the D7 draft DCO [REP7-006] to Work No. 43; however, they consider the drafting submitted by the Authorities at D7 better reflects the proposed works.
24.		<p>Work No. 44 Works to—</p> <ul style="list-style-type: none"> (a) remove existing surface car parking and associated structures; (b) construct wastewater treatment works; (c) construct new rising mains and pumping station next to Gatwick Airport Police Station; (d) provide a new pipe outfall to River Mole; (e) provide associated revisions to wastewater infrastructure within the project boundary. 	<p>The works are described in the Project Change 4 documents, and include a new pumping stations. Elsewhere in Schedule 1, pumping stations have been listed, for example Work No 4(c)(ii). This is an integral part of the Work and should be listed, along with the other suggested details.</p> <p>As with other works, there is insufficient detail in the Works and parameter plans to show the</p>	The Authorities maintain their position and consider this amendment should be made.

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			lateral and vertical limits of the various elements of the works.	
25.		<p>Work No. [X]</p> <p>Work to construct a pumping station east of the railway [X] if Work No. 44 is not constructed</p>	<p>As mentioned above, pumping stations are mentioned elsewhere in Schedule 1 (another example of a stand alone pumping station work is Work No. 19).</p> <p>This pumping station and its associated pipe run is shown on plan [REP6-016] drawing 5.2.1e (Environmental Statement Project Description Figures Version 4 (Tracked)) but it has been deleted from the latest version of the plan [REP6-015]. The Authorities understand that the pumping station is still required in case Work No. 44 is not delivered.</p>	The Authorities maintain their position and consider this amendment should be made.
26.		<p>Additional Works</p> <p>The Authorities consider that some of the larger construction compounds should be added to the list of numbered works, rather than be listed with the ancillary works,</p>		Row 26 of the Consolidated Submissions [REP7-108] refers to the fact that the Authorities consider the larger construction compounds should be added to the list of numbered works. These were identified in [REP6-111] (at page 13 of Table 1 i.e. from Main Contractor Compound MA1 to (and including) to

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8																
	Provision	Amended Text	Explanation																	
		<p>because of their size and the length of time they will be required.</p> <p>If the ExA indicates sympathy with this position, then the Authorities consider that it would be for the Applicant to draft the work description.</p> <p><u>Schedule 1</u> to the Sizewell C (Nuclear Generating Station) Order 2022 included a temporary accommodation campus as Work No. 3. This could be used as a template.</p>		<p>Reed Bed Compound) and a copy of the relevant extract has been snipped below. The Authorities would welcome the Applicant’s comments on this point.</p> <p>Legal Partnership Authorities Gatwick Airport Northern Runway DCO (TR020005)</p> <table border="1" data-bbox="1857 643 2308 1256"> <tbody> <tr> <td data-bbox="1857 643 2040 699">Main Contractor compound MA1</td> <td data-bbox="2045 643 2308 699">Requested added to DP. Works would be up to 25m high, cover an area of around 4 hectares have in excess of 500 parking spaces and provide accommodation for a workforce of circa 700 works. Visual impact over 14 year period.</td> </tr> <tr> <td data-bbox="1857 703 2040 776">Airfield Satellite Compound</td> <td data-bbox="2045 703 2308 776">Requested added to DP. While visually away from nearby occupiers site is close to ecologically sensitive Brockley Wood and River Mole and is within floodplain. Further details needed to safeguard these environmental constraints to address matters such as layout, light spill, dust suppression, potential impact on watercourse.</td> </tr> <tr> <td data-bbox="1857 779 2040 852">Car Park Z compound</td> <td data-bbox="2045 779 2308 852">Request add to DP. CBC mapping shows watercourse along SW boundary and site is partially within floodplain. Some landscaping along SW boundary. Adjacent to Lowfield Health employment area which also has hotel and St Michael Church (latter is noise sensitive use and listed building). Layout needs careful consideration.</td> </tr> <tr> <td data-bbox="1857 855 2040 912">Car Park Y Compound</td> <td data-bbox="2045 855 2308 912">Request to add to DP. There needs to be clear understanding how this compound use relates to other development planned for this site. Surrounding tree loss, ecological impacts and drainage impact along and visual impacts need to be fully addressed.</td> </tr> <tr> <td data-bbox="1857 915 2040 956">South Terminal roundabout contractor compound</td> <td data-bbox="2045 915 2308 956">Request to add to DP. The proposed location of the compound will make it highly visible to users of the A23 London Road and nearby residential properties close to residents to the west of Balcombe Road.</td> </tr> <tr> <td data-bbox="1857 959 2040 1060">Longbridge roundabout contractor compound</td> <td data-bbox="2045 959 2308 1060">Request to add to DP. Use of this area of land will require some clearance of trees/shrubbery and this should be clearly understood prior to starting on site to ensure this is done sensitively to minimise the impacts to properties and businesses within the vicinity as much as is practicably possible. While the content of REP4-040 is noted, the construction compound will be in relative proximity to a conservation area and care must be taken in terms of both the compound itself and the access.</td> </tr> <tr> <td data-bbox="1857 1063 2040 1164">Car Park B compound</td> <td data-bbox="2045 1063 2308 1164">Request to add to DP. The layout should respect any existing trees and landscaping to be retained including that to be incorporated into the future Replacement Open Space. Appropriate access should be retained to nearby rights-of-way. The design should be sensitive to the residential properties at 92-98 The Crescent with regard to overlooking, privacy and noise. 24/7 access to the telecoms base station would need to be retained in the scheme.</td> </tr> <tr> <td data-bbox="1857 1167 2040 1256">Reed Bed Compound</td> <td data-bbox="2045 1167 2308 1256">Request adding details to DP in connection with Works 43. Currently no detail on extent of this compound as while within DCO Project boundary this is not within works area. Layout need to address ecological safeguards, tree protection routing and be clear on visual impacts and duration. These works could be agreed as part of Schedule 12 approval for Works 43 but note this compound is not within the Works area.</td> </tr> </tbody> </table>	Main Contractor compound MA1	Requested added to DP. Works would be up to 25m high, cover an area of around 4 hectares have in excess of 500 parking spaces and provide accommodation for a workforce of circa 700 works. Visual impact over 14 year period.	Airfield Satellite Compound	Requested added to DP. While visually away from nearby occupiers site is close to ecologically sensitive Brockley Wood and River Mole and is within floodplain. Further details needed to safeguard these environmental constraints to address matters such as layout, light spill, dust suppression, potential impact on watercourse.	Car Park Z compound	Request add to DP. CBC mapping shows watercourse along SW boundary and site is partially within floodplain. Some landscaping along SW boundary. Adjacent to Lowfield Health employment area which also has hotel and St Michael Church (latter is noise sensitive use and listed building). Layout needs careful consideration.	Car Park Y Compound	Request to add to DP. There needs to be clear understanding how this compound use relates to other development planned for this site. Surrounding tree loss, ecological impacts and drainage impact along and visual impacts need to be fully addressed.	South Terminal roundabout contractor compound	Request to add to DP. The proposed location of the compound will make it highly visible to users of the A23 London Road and nearby residential properties close to residents to the west of Balcombe Road.	Longbridge roundabout contractor compound	Request to add to DP. Use of this area of land will require some clearance of trees/shrubbery and this should be clearly understood prior to starting on site to ensure this is done sensitively to minimise the impacts to properties and businesses within the vicinity as much as is practicably possible. While the content of REP4-040 is noted, the construction compound will be in relative proximity to a conservation area and care must be taken in terms of both the compound itself and the access.	Car Park B compound	Request to add to DP. The layout should respect any existing trees and landscaping to be retained including that to be incorporated into the future Replacement Open Space. Appropriate access should be retained to nearby rights-of-way. The design should be sensitive to the residential properties at 92-98 The Crescent with regard to overlooking, privacy and noise. 24/7 access to the telecoms base station would need to be retained in the scheme.	Reed Bed Compound	Request adding details to DP in connection with Works 43. Currently no detail on extent of this compound as while within DCO Project boundary this is not within works area. Layout need to address ecological safeguards, tree protection routing and be clear on visual impacts and duration. These works could be agreed as part of Schedule 12 approval for Works 43 but note this compound is not within the Works area.
Main Contractor compound MA1	Requested added to DP. Works would be up to 25m high, cover an area of around 4 hectares have in excess of 500 parking spaces and provide accommodation for a workforce of circa 700 works. Visual impact over 14 year period.																			
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Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
27.	Req 2A Phasing scheme	<p>Phasing scheme and indicative timings of submissions of documents</p> <p>2A.—(1) The authorised development must not commence until a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways.</p> <p>(2A) The date of commencement of the authorised development must be no sooner than the expiry of the period of 6 months beginning with the date on which the phasing scheme is submitted under paragraph (1).</p> <p>(2) The undertaker must review and make any necessary updates to the phasing scheme and submit that updated phasing scheme to the host authorities and National Highways:</p> <p>(a) no later than one year after five years from the date of commencement of the authorised development;</p> <p>(b) at any time if the undertaker proposes a significant change to the contents or timing of</p>	<p>The amendments proposed here are intended to ensure that the Authorities are properly able to prepare and allocate resources in advance of submissions being made, particularly at periods when applications will be coming forward intensively.</p> <p>The amendments should not, and are not intended to result in any significant delay to the delivery of the project.</p> <p>The Authorities understand that the Applicant will be submitting amendments to this provision at Deadline 7, which the Authorities will consider.</p>	<p>The Authorities’ updated comments on Requirement 2A (including their comments on the changes made by the Applicant to this provision at D7 [REP7-006]) are set out in row 168 of Part A of this document i.e. in the Authorities’ comments on the Applicant’s D7 Schedule of Changes.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>the phases of construction in a previously submitted phasing scheme; and</p> <p>(c) at least once in every yearno later than every five years after the date of the most recent submission of a phasing scheme under this sub-paragraph (2),</p> <p>provided that the undertaker is not required to submit any further phasing scheme to a host authority after the completion of the construction of the authorised development, or after such earlier date as may be agreed by the host authority in question.fifteenth anniversary of the commencement of the authorised development.</p> <p>(2A) A submission of an updated phasing scheme made to a host authority under sub-paragraph (2)(b) must be made to the host authority at least 3 months before the significant change in question is implemented unless otherwise agreed by the host authority in question.</p>		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(2B) Where any requirement in this Schedule requires the submission to any of the host authorities of details or a document relating to the authorised development, the undertaker must provide to the host authority in question indicative timings for the submission of the relevant details or document in question at least 3 months before their submission unless otherwise agreed by the host authority in question.</p> <p>(3) Where any requirement in this Schedule requires the submission to any of the host authorities or National Highways of details or a document relating to a part of the authorised development, the undertaker must:</p> <p>(a) state which phase that part falls within by reference to the most recent phasing scheme submitted under sub-paragraph (1) or (2); and</p> <p>(b) where the part does not constitute the whole phase:</p> <p>(i) identify which works in Schedule 1 (authorised development) constitute the part,</p>		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>including by reference to the works plans (where applicable); and (ii) provide indicative timings for the submission of the relevant details or document for the remainder of works in that phase.</p> <p>(4) In this requirement “phasing scheme” means a written document which— (a) identifies, by reference to Schedule 1 (authorised development), the works that are anticipated to be constructed within successive temporal phases of construction; (b) includes a layout plan showing the location of the works anticipated to be constructed in each phase; and (c) includes an indicative construction programme for any phases to be delivered in the five years following the date of submission of the phasing scheme and indicative timings for the delivery of later phases;</p>		
28.	Req. 3 Time limit and notifications	(2) The undertaker must notify the host authorities—	These amendments are intended to correct the position following submission of amendments at D6 in which references to “business” days were removed.	The Authorities maintain their position and consider these amendments should be made.

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	Provision	Amended Text	Explanation	
		<p>(a) within the period of 7 days beginning withafter the date on which the authorised development begins;</p> <p>(b) at least 4228 days prior to the anticipated date of commencement of the authorised development, provided that commencement may still lawfully occur if notice is not served in accordance with this sub-paragraph;</p> <p>(c) within the period of 7 days beginning withafter the actual date of commencement of the authorised development;</p> <p>(d) at least 4228 days prior to the anticipated date of commencement of dual runway operations; and</p> <p>(e) within the period of 7 days beginning withafter the actual commencement of dual runway operations.</p>	<p>The Authorities understand that the Applicant will be submitting amendments to this provision at Deadline 7, which the Authorities will consider.</p>	
29.	Req. 4 Detailed design	<p>4.—(1) No part of the authorised development (except for the highway works and listed works) is to commence until CBC has been consulted on the design of that part, with this consultation to take place in the same manner as if taking place pursuant to paragraph F.2. of</p>	<p>These amendments would mean MVDC would be discharging authority for Work No 40.</p> <p>The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.</p>	<p>The Authorities’ updated comments on Requirement 4 (including their comments on the changes made by the Applicant to this provision at D7 [REP7-006] and the Authorities’ further proposed amendments) are set out in row 179 of Part A of this document i.e. in the Authorities’</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>Part 8 of Schedule 2 to the 2015 Regulations (subject to sub-paragraph (6)).</p> <p>(3) No part of any listed works is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(7) In this paragraph, references to CBC are to be read as references to MVDC in the case of Work No. 40 (works associated with land to the north east of Longbridge Roundabout) and MVDC is not to be a consultee where as a consequence of the foregoing it would be responsible for approving details or agreeing any matter instead of CBC.</p>		<p>comments on the Applicant’s D7 Schedule of Changes.</p>
30.	Req. 4	<p>(7) No part of the authorised development is to commence until a statement of compliance</p>	<p>A compliance plan would assist the Authorities in understanding how proposals fit in with the</p>	<p>The Authorities’ updated comments on Requirement 4 (including their comments on the</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
	Detailed design	<p>demonstrating how the plans and details of the relevant building, structure or works for that part are in compliance with, where applicable—</p> <p>(i) the design principles in appendix 1 of the design and access statement; and</p> <p>(ii) the limits of works; and</p> <p>(iii) the parameter plans.</p>	<p>control documents, which should help with resourcing and ensuring time limits are met.</p> <p>The Authorities understand that the Applicant will be submitting amendments to this provision at D7, which the Authorities will consider.</p>	<p>changes made by the Applicant to this provision at D7 [REP7-006] and the Authorities' further proposed amendments) are set out in row 179 of Part A of this document i.e. in the Authorities' comments on the Applicant's D7 Schedule of Changes.</p>
31.	Req. 8	<p>8.—(1) No part of the authorised development is to commence until a landscape and ecology management plan for that part has been submitted to and approved in writing by CBC (in 60 consultation with RBBC, MVDC or TDC to the extent that they are the relevant planning authority for any land to which the submitted plan relates)</p> <p>(5) In this paragraph, references to CBC are to be read as references to MVDC in the case of Work No. 40 (works associated with land to the north east of Longbridge Roundabout) and MVDC is not to be a consultee where as a consequence of the foregoing it would be</p>	<p>See comments above on requirement 4.</p> <p>The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.</p>	<p>The Applicant introduced a new paragraph (5) into Requirement 8 at Deadline 7 [REP7-006] and the Authorities are content with that amendment.</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
		responsible for approving a plan instead of CBC.		
32.	Req. 9 Contaminated land and groundwater	Placeholder: no amendments suggested at this stage. 9.—(1) In respect of any part of the authorised development where historical data cannot establish that the risk of contaminated land is low , the undertaker must conduct ground investigations prior to that part of the authorised development being commenced. The scope of these investigations must be agreed with the relevant planning authority (in consultation with the Environment Agency on matters related to its functions).	The Authorities are considering whether sub-paragraph (1) and in particular the highlighted words below can be strengthened and/or made clearer so as to ensure that ground investigations take place in appropriate circumstances and in line with the Authorities' usual expectations. The Authorities will seek to agree wording with the Applicant.	Requirement 9(1) refers to "historical data". To better understand the provision, the Authorities have asked whether GAL can confirm which data is being referred to here. The Authorities look forward to receiving this information.
33.	Req. 14 Archaeological remains	Placeholder: no amendments suggested at this stage.	The Authorities will carry out a check on the revised written scheme of investigation which is expected at D7. If the Authorities consider any amendments to R14 are required they will submit them at D8	WSSC is content with Requirement 14.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
34.	Req. 15 Air noise envelope	<p>(2) The undertaker shall be required to submit annual monitoring and forecasting reports and, if necessary, noise compliance plans to the independent air noise reviewer in accordance with the requirements contained at section 7 of the noise envelope document and at the same time shall send copies of those documents to the host authorities so they may make comments to the independent air noise reviewer. The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the Applicant must afford such assistance as the host authorities may require reasonably require.</p> <p>(3) The undertaker must comply with each noise compliance plan which is approved following scrutiny and verification by the independent air noise reviewer or the Secretary of State (as is relevant in the circumstances) in consultation with the host</p>	<p>Limited changes to the process which would ensure that host authorities had sight of the documentation and had a consultee role. There is also a duty on the Applicant to co-operate with the host authority</p> <p>Note: the Authorities are considering whether further changes are required to this requirement.</p>	<p>The Authorities' updated position on Requirement 15 (and 16) is included in Part C of this document.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>authorities, subject always to compliance with all other laws and international obligations which are applicable to the noise compliance plan and the measures therein contained.</p> <p>(5)</p> <p>until an annual monitoring and forecasting report has been approved (following consultation with the host authorities) by the independent air noise reviewer or by the Secretary of State (as is relevant in the circumstances) which confirms compliance with the noise envelope limit identified to have been exceeded or forecast to be exceeded (as is relevant in the circumstances), including where relevant when taking account of the measures proposed within a noise compliance plan to address any such exceedance.</p>		
35.	Req. 16	(1) The undertaker shall be required to submit noise envelope review documents to the	Limited changes to the process which would ensure that host authorities had sight of the	The Authorities' updated position on Requirement 16 is included in Part C of this document.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
	Air noise envelope reviews	<p>independent air noise reviewer for approval in accordance with the requirements contained at section 8 of the noise envelope document and at the same time must send copies of those documents to the host authorities so they may make comments to the independent air noise reviewer. The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(2) The undertaker must submit a draft of any noise envelope review document to the independent air noise reviewer not less than 42 days before the submission of that noise envelope review document for approval pursuant to sub-paragraph (1) of this requirement and at the same time must send copies of those draft documents to the host authorities so they may make comments to the independent air noise reviewer. The</p>	<p>documentation and had a consultee role, and shortening of some of the time limits, which appear generous for simple publication of a document.</p> <p>There is also a duty on the Applicant to co-operate with the host authority.</p> <p>Note: the Authorities are considering whether further changes are required to this requirement.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>independent air noise reviewer must have regard to any comments that it receives from the host authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(6) The undertaker must publish on a website (including a page on a website) hosted by the undertaker for that purpose each approved noise envelope review document or extraordinary noise envelope review document within not more than 1445 days following the date on which those are approved.</p>		
36.	Req. 17 Verification of air noise monitoring equipment	7.—(1) Within not more than six months following the end of the period of 12 months beginning with the commencement of dual runway operations and at 5 yearly intervals thereafter the undertaker must submit to the independent air noise reviewer a noise model verification report and at the same time must send a copy of that report to the host	Limited changes to the process which would ensure that host authorities had sight of the documentation and had a consultee role, and shortening of some of the time limits, which appear generous for simple publication of a document.	The Authorities maintain their position in respect of this amendment.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>authorities so they may make comments to the independent air noise reviewer The independent air noise reviewer must have regard to any comments that it receives from the host authorities and the undertaker must afford such assistance as the host authorities may require reasonably require.</p> <p>(2) The undertaker must publish on a website (including a page on a website) hosted by the undertaker for that purpose each noise model verification report submitted to the independent air noise reviewer within not more than 1445 days after the date of its submission.</p>	<p>Note: the Authorities are considering whether further changes are required to this requirement.</p>	
37.	Req. 18 Noise insulation scheme	Placeholder: no amendments suggested at this stage.	<p>Drafting may follow in due course in relation to the time limits in this requirement and to include more detail about what “appropriate steps” are to notify people under paragraphs (2), (3) and (6) and to measure levels of ground noise under paragraph (4).</p> <p>At the very least there should be a definition of “appropriate steps” in the requirement – it</p>	The Authorities’ updated position on Requirement 18 is included in Part C of this document.

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	Provision	Amended Text	Explanation	
			should be for the Applicant to come forward with the definition.	
38.	Req. 19 Airport operations	<p>(1) From the date of the commencement of dual runway operations, the airport may not be used for more than 386,000 commercial air transport 389,000 aircraft movements per annum.</p> <p>(5) In this requirement—</p> <p>“aircraft movements” means all aircraft movements with the exception of diverted or emergency flights”;</p> <p>“Code C aircraft” means aircraft with dimensions meeting the maximum specifications of code letter C in the Aerodrome Reference Code table in Annex 14, Volume I to the Convention on International Civil Aviation, as at the date of this Order.</p>	<p>This is to ensure that the cap includes certain non-commercial flights which would not otherwise fall within the definition of “commercial air transport” in requirement 1. It includes, for example, private flights.</p> <p>At full capacity the airport is forecast to handle 386,000 commercial movements, and 389,000 total movements.</p> <p>“aircraft movements” is an industry term which would include such “non-commercial” movements.</p> <p>The ExA is referred to :</p> <p>UK airport data notes and FAQs Civil Aviation Authority (caa.co.uk)</p> <p>The following industry terms are described:</p>	The Authorities maintain their position and consider this amendment should be made.

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
			<p>Aircraft Movement: Any aircraft take-off or landing at an airport. These could be either commercial or non-commercial flights. For airport traffic purposes one arrival and one departure are counted as two movements.</p> <p>Air Transport Movements: Landings or take-offs of aircraft engaged on the transport of passengers, freight or mail on commercial terms. All scheduled movements, including those operated empty, loaded charter and air taxi movements are included.</p> <p>Note: The Authorities are currently under discussions with the Applicant about flight departure routes. Depending on the outcome of those discussions, the Authorities may include further suggested amendments at D8.</p>	
39.	Req. 20 Surface access	20. From the date on which the authorised development begins the operation of the airport must be carried out in accordance with the surface access commitments unless	The Authorities understand that the Applicants will be submitting amendments to this provision at D7, which the Authorities will consider.	The Applicant introduced this wording into Requirement 20 at Deadline 7 [REP7-006] and the Authorities are content with that amendment.

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	Provision	Amended Text	Explanation	
		otherwise agreed in writing with CBC and National Highways in consultation with West Sussex County Council and Surrey County Council.		The Authorities' wider comments on this provision are set out in Part C of this document.
40.	Req. 23 Flood compensation delivery plan	Placeholder: no amendments suggested at this stage.	The Authorities are considering the arrangements for who should be the discharging authority in this requirement. They should be able to provide an update at D8 and will discuss with the Applicant in the meantime.	<p>Identifying the appropriate discharging authority for this requirement has proved challenging for CBC and WSCC. On reflection, CBC and WSCC are content for CBC to discharge, provided WSCC as lead local flood authority is consulted beforehand.</p> <p>CBC and WSCC would therefore propose that Requirement 23 is amended as follows -</p> <p>(1) Prior to the commencement of the first of the floodplain works requiring prior mitigation, a flood compensation delivery plan setting out the timeframe for delivering the fluvial mitigation works must be submitted to and approved by CBC (in consultation with WSCC as lead local flood authority and the Environment Agency).</p> <p>(2) The authorised development must be constructed in accordance with the flood compensation delivery plan referred to in subparagraph (1) unless otherwise agreed in writing</p>

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO				
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
				with CBC (in consultation with WSCC as lead local flood authority and the Environment Agency).
41.	Req. 30 Site waste management plan	Placeholder: no amendments suggested at this stage.	The Authorities are considering whether the identity of the discharging authority for this requirement should be amended.	The Authorities' updated comments on Requirement 30 are set out in row 184 of Part A of this document i.e. in the Authorities' comments on the Applicant's D7 Schedule of Changes.
42.	Req. 32 Western noise mitigation bund	Western noise mitigation bund 32.—(1) The commencement of dual runway operations must not take place until Work No. 18(b) (replacement noise bund and wall) has been completed. (2) Once completed, Work No. 18(b) must not be removed unless otherwise agreed in writing by CBC. (3) No part of Work No. 18 is to commence unless a scheme has been agreed in writing between the undertaker and CBC for the implementation of noise mitigation of no less efficacy than the existing western noise bund for the period between the removal of the existing western noise bund and the	See comments on Work No. 18 above. The Authorities wish to ensure that there will be sufficient protection in the transition phase and that the replacement bund and wall provides at least the same level of mitigation as the existing bund. The Authorities understand that the Applicants will be submitting proposals on the first of those points at D7, which the Authorities will consider.	The Authorities maintain their position and consider this amendment to Requirement 32 should be made. In addition, (and as mentioned in row 13 above) the Authorities consider that, in order to prevent the residents of Charlwood from being exposed to unmitigated noise emissions due to engine testing during the carrying out of Work No.18(a) and 18(b), engine testing during the carrying out of those works should be controlled. The Authorities would propose the following requirement as a means of controlling engine testing during the carrying out of Work No.18(a) and 18(b) -

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No.	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>completion of construction of the replacement noise bund and wall.</p> <p>(4) The undertaker must implement the scheme agreed under paragraph (3).</p> <p>(5) The replacement noise bund and wall must be of no less efficacy than the existing western noise bund.</p>		<p>“During the carrying out of Work No.18(a) and 18(b), no engine testing may take place at the Taxiway Juliet West Spur as shown on Figure 5.2.1A of the Project Description Figures of the Environmental Statement, unless otherwise agreed in writing by CBC”.</p>
43.	Sch 11 Part 1 Approval fees	Paragraph 3 (fees).	<p>The Authorities are preparing proposals for replacement fee recovery arrangements and details of this are contained in the Legal Partnership Authorities’ Deadline 7 submission “Response to EXQ2” (DCO.2.23).</p> <p>In the meantime, the most likely position is that the Authorities will ask that paragraph 3 of Schedule 11 be removed.</p> <p>Discussions are ongoing with the Applicant about a fee recovery arrangement outside the DCO.</p>	<p>The Authorities are concerned about the Applicant’s position regarding the resource implications for the Authorities in discharging Requirements. This was demonstrated by the Applicant’s statement at ISH9 that they do not see any need for a financial contribution to be made to the Authorities for them to be able to respond on the Carbon Action Plan because any consultation “<i>can be carried out in accordance with usual administrative functions.</i>” There is a clear disconnect between the Applicant’s views and those of the Authorities on the necessary work required to discharge Requirements, including Works and responses to Control documents. No formal response has yet been given to the Authorities’ request for discussion on a PPA. Should the Applicant not respond positively to the proposals suggested by the Authorities at D7 [set</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
				<p>out in REP7-110, DCO 2.23], the Authorities would wish to see either Schedule 11 amended, or a new Requirement added, to ensure appropriate fee levels will be secured as proposed in REP7-110] to provide cost recovery for the Authorities in undertaking proper assessment of Requirement discharge applications, possibly through a PPA.</p> <p>If a requirement is to be included in the DCO, the Authorities consider the following would be reasonable -</p> <p>“(X)(1) No part of the authorised development is to commence until the undertaker has entered into a planning performance agreement with the host authorities to cover the host authorities’ costs, on a cost recovery basis, of –</p> <ul style="list-style-type: none"> (a) consenting or approving any application under any article; (b) agreeing, endorsing or approving any requirement; and (c) responding to any consultation under this Order. <p>(2) Any difference arising between the host authorities and undertaker in respect of the content</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
				of any planning performance agreement may be resolved by arbitration under article 54 (arbitration).”
44.	Sch 11 Time Limits	<p>Applications made under requirement</p> <p>1.—(1) Where an application has been made to a discharging authority for any agreement, endorsement or approval required by a requirement included in this Order (except where the discharging authority is the independent air noise reviewer, in which case Part 2 of this Schedule has effect in place of this Part), the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.</p> <p>(2) For the purposes of sub-paragraph (1), the decision period is—</p> <p>(a) in the case of requirements in respect of which the discharging authority has a duty under Schedule 2 (requirements) of this Order to consult with any other body—</p>	<p>See previous comments on the length of time that the Authorities will have to deal with what could possibly be a large number of requests and applications coming in an intensive period. Whilst the Authorities welcome the changes that have been made by the Applicant as regards requirement 2A (phasing) and the proposals for a compliance statement, they still consider that a longer time period is justifiable in the case of a limited number of works.</p> <p>In addition, the authorities consider that they should have more time to consider whether further information is necessary and seek a modest extension of one week to the time limit for making such a request.</p> <p>In the list of “major works” the Authorities have included some of the more substantive works, including all those works listed in paragraph 4.3 of REP6-111 as requiring Design Review,</p>	<p>On reflection, the Authorities consider the 16-week periods mentioned in sub-paragraphs (2)(a)(i) and (ii) for major works is too long and should be reduced to 13-weeks, which is consistent with the timeframe within which a major application must be determined under the Town and Country Planning Act regime.</p>

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(i) where no further information is requested under paragraph 2, 8 weeks (or in the case of major works, 16 weeks) from the day immediately following that on which the application is received by the discharging authority;</p> <p>(ii) where further information is requested under paragraph 2, 8 weeks (or in the case of major works, 16 weeks) from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or</p> <p>(iii) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (i) or (ii) (such agreement not to be unreasonably withheld); and</p> <p>(b) in the case of requirements in respect of which the discharging authority has no duty under Schedule 2 of this Order to consult with any other body—</p>	<p>These would be ‘major in scale’ under the Development Management Definition used for planning applications and would normally be subject to a minimum 13 week determination period.</p> <p>There is a placeholder at sub-paragraph (2A)(xii) for others to be added potentially.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(i) where no further information is requested under paragraph 2, 6 weeks (or in the case of major works, 12 weeks) from the day immediately following that on which the application is received by the discharging authority;</p> <p>(ii) where further information is requested under paragraph 2, 6 weeks (or in the case of major works, 12 weeks) from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or</p> <p>(iii) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (i) or (ii) (such agreement not to be unreasonably withheld).</p> <p>(2A) In sub-paragraph (2), “major works” means—</p> <p>(i) Work No. 9 (Works to construct the replacement Central Area Recycling Enclosure (CARE) facility);</p>		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>(ii) Work No. 16 (new hangar); (iii) Work No. 22 (Works associated with the North Terminal building); (iv) Work No. 23 (Works associated with the South Terminal building); (v) Work No. 24 (Works to upgrade the North Terminal forecourt including access roads); (vi) Work No. 25 (Works to upgrade the South Terminal forecourt including access roads); Work No. 26 (Works to construct a hotel north of multi-storey car park 3); (vii) Work No. 27 (Works to construct a hotel on the car rental site); (viii) Work No. 28 (Works associated with the Car Park H Site); (ix) Work No. 29 (Works to convert the existing Destinations Place office into a hotel); (x) Work No. 30 (Works to construct Car Park Y); (xi) Work No. 31 (Works associated with Car Park X) (xii) [Others TBC]</p> <p>(3)[no changes proposed]</p>		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			
	Provision	Amended Text	Explanation	Updated Position Deadline 8
		<p>Further information</p> <p>2.—(1) In relation to any application to which this Part of this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) If the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 44 days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(3) [no further changes proposed]</p>		
45.	Sch 12 Non-highway works for	<p style="text-align: center;">SCHEDULE 12 Non-Highway Works for which Detailed Design Approval is Required</p>	See explanations given in Table 1 in Appendix A (Design Note) to the Authorities’ response to the ISH8 Action Points [REP6-111]	The Authorities have reviewed the additional information provided by the Applicant at Deadline 7 and, based on that information, have reduced the

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8																								
	Provision	Amended Text	Explanation																									
	which detailed design approval is required	<table border="1"> <thead> <tr> <th data-bbox="556 529 749 570"><i>(1) Work No.</i></th> <th data-bbox="755 529 1158 570"><i>(2) Work description</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="556 573 749 841">1 (part)</td> <td data-bbox="755 573 1158 841">Northern Runway (only in respect of those parts that involve surface or foul water drainage for detailed approval under requirement 10(3) (surface and foul water drainage only)</td> </tr> <tr> <td data-bbox="556 844 749 917">4*</td> <td data-bbox="755 844 1158 917">Works relating to the runways and taxiways</td> </tr> <tr> <td data-bbox="556 920 749 993">6</td> <td data-bbox="755 920 1158 993">Works to construct a new pier (Pier 7)</td> </tr> <tr> <td data-bbox="556 997 749 1070">7*</td> <td data-bbox="755 997 1158 1070">Works to construct the Oscar Area</td> </tr> <tr> <td data-bbox="556 1073 749 1227">9</td> <td data-bbox="755 1073 1158 1227">Works to construct the replacement Central Area Recycling Enclosure (CARE) facility</td> </tr> <tr> <td data-bbox="556 1230 749 1344">10</td> <td data-bbox="755 1230 1158 1344">Works to construct the replacement motor transport facilities</td> </tr> </tbody> </table>	<i>(1) Work No.</i>	<i>(2) Work description</i>	1 (part)	Northern Runway (only in respect of those parts that involve surface or foul water drainage for detailed approval under requirement 10(3) (surface and foul water drainage only)	4*	Works relating to the runways and taxiways	6	Works to construct a new pier (Pier 7)	7*	Works to construct the Oscar Area	9	Works to construct the replacement Central Area Recycling Enclosure (CARE) facility	10	Works to construct the replacement motor transport facilities		<p>number of works they consider should be included in Schedule 12.</p> <p>An updated Schedule 12 is set out below. The following works have been removed from the version submitted by the Authorities at Deadline 7 – Work Nos. 4, 6(c), (e) and (f), 7, 10(i), 11, 12, 14, 19, 20, 34 and 42.</p> <p>The explanations given in Table 1 in Appendix A (Design Note) to the Authorities’ response to the ISH8 Action Points [REP6-111] apply to the remaining Work Nos. set out in the Authorities’ amended Schedule 12.</p> <table border="1"> <thead> <tr> <th data-bbox="1819 1032 1970 1105"><i>(1) Work No.</i></th> <th data-bbox="1975 1032 2478 1105"><i>(2) Work description</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="1819 1109 1970 1214">1 (part) *</td> <td data-bbox="1975 1109 2478 1214">Northern Runway (only in respect of those parts that involve surface or foul water drainage)*</td> </tr> <tr> <td data-bbox="1819 1218 1970 1291">6 (a), (b) and (d)</td> <td data-bbox="1975 1218 2478 1291">Pier 7</td> </tr> <tr> <td data-bbox="1819 1294 1970 1318">9</td> <td data-bbox="1975 1294 2478 1318">Central Area Recycling Enclosure</td> </tr> <tr> <td data-bbox="1819 1321 1970 1395">10 (a) – (h)</td> <td data-bbox="1975 1321 2478 1395">Motor Transport Facilities</td> </tr> </tbody> </table>	<i>(1) Work No.</i>	<i>(2) Work description</i>	1 (part) *	Northern Runway (only in respect of those parts that involve surface or foul water drainage)*	6 (a), (b) and (d)	Pier 7	9	Central Area Recycling Enclosure	10 (a) – (h)	Motor Transport Facilities
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No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8		
	Provision	Amended Text		Explanation		
		11	Works to construct the replacement grounds maintenance facilities		15	Satellite Airport Fire Service Facility
		12	Works to construct the replacement airfield surface transport facilities		16	Hangar
		14	Works to remove and construct the replacement fire training ground		17*	Hangar 7 support structures
		15	Works to construct the satellite airport fire service facility		18 (a) – (c)	Western Noise Bund
		16	Works to construct a new aircraft hangar.		22(a) – (c) and (g)	Extending the North Terminal International Departure Lounge
		17*	Works to relocate the Hangar 7 support structures		23(a) and (c)	Extending the North Terminal International Departure Lounge and construction of Autonomous Vehicle Station
		18	Works to remove and replace the western noise mitigation bund		24	Works to North Terminal Forecourt
		19	Works to construct pumping station 2a.		25	Works to south Terminal Forecourt
		20	Works to realign Larkins Road.		26	Hotel north of multi-storey car park 3
					27	Hotel on the car rental site
					28 (a), (b), (c) and (e)	Hotel , Office, Multi-Storey Car Park , external vehicle and pedestrian accesses on the Car Park H site
					29	Conversion of Destinations Place to hotel
					30	Car Park Y
					31	Car Park X
					32	Constructed Decked Car Park

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		<table border="1"> <tr> <td data-bbox="556 446 747 646">22(a)–(e)(d) and (g)</td> <td data-bbox="752 446 1155 646">Extending the North Terminal International Departure Lounge Works associated with the North Terminal building</td> </tr> <tr> <td data-bbox="556 646 747 841">23(a) and (c)</td> <td data-bbox="752 646 1155 841">Extending the South Terminal International Departure Lounge Works associated with the South Terminal building</td> </tr> <tr> <td data-bbox="556 841 747 954">24</td> <td data-bbox="752 841 1155 954">Works to upgrade the North Terminal forecourt including access roads.</td> </tr> <tr> <td data-bbox="556 954 747 1068">25</td> <td data-bbox="752 954 1155 1068">Works to upgrade the South Terminal forecourt including access roads.</td> </tr> <tr> <td data-bbox="556 1068 747 1182">26</td> <td data-bbox="752 1068 1155 1182">Hotel north of multi-storey car park 3</td> </tr> <tr> <td data-bbox="556 1182 747 1230">27</td> <td data-bbox="752 1182 1155 1230">Hotel on the car rental site</td> </tr> <tr> <td data-bbox="556 1230 747 1312">28(a), (b), (c) and (e)</td> <td data-bbox="752 1230 1155 1312">Works associated with Hotel on the Car Park H site</td> </tr> </table>	22(a)–(e)(d) and (g)	Extending the North Terminal International Departure Lounge Works associated with the North Terminal building	23(a) and (c)	Extending the South Terminal International Departure Lounge Works associated with the South Terminal building	24	Works to upgrade the North Terminal forecourt including access roads.	25	Works to upgrade the South Terminal forecourt including access roads.	26	Hotel north of multi-storey car park 3	27	Hotel on the car rental site	28(a), (b), (c) and (e)	Works associated with Hotel on the Car Park H site		<table border="1"> <tr> <td data-bbox="1819 446 1964 495">33</td> <td data-bbox="1970 446 2478 495">Purple Parking</td> </tr> <tr> <td data-bbox="1819 495 1964 535">38</td> <td data-bbox="1970 495 2478 535">Museum Field</td> </tr> <tr> <td data-bbox="1819 535 1964 576">39</td> <td data-bbox="1970 535 2478 576">River Mole Works</td> </tr> <tr> <td data-bbox="1819 576 1964 649">40 (a)</td> <td data-bbox="1970 576 2478 649">Pedestrian footbridge over the River Mole</td> </tr> <tr> <td data-bbox="1819 649 1964 690">41 (c)</td> <td data-bbox="1970 649 2478 690">Works at Pentagon Field</td> </tr> <tr> <td data-bbox="1819 690 1964 730">43</td> <td data-bbox="1970 690 2478 730">Water Treatment Works</td> </tr> <tr> <td data-bbox="1819 730 1964 771">44 (b)</td> <td data-bbox="1970 730 2478 771">Wastewater Treatment Works</td> </tr> </table> <p data-bbox="1819 812 2478 917">*Asterisk denotes where additional information to clarify a point in the Development Principles would remove this approval requirement.</p>	33	Purple Parking	38	Museum Field	39	River Mole Works	40 (a)	Pedestrian footbridge over the River Mole	41 (c)	Works at Pentagon Field	43	Water Treatment Works	44 (b)	Wastewater Treatment Works
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No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8									
	Provision	Amended Text	Explanation										
46.	Sch 13 [Informative] Maximum Parameter Heights	<p>Heading:</p> <p>Informative Maximum Parameter Heights</p> <p>Insert the following entry:</p> <table border="1" data-bbox="559 721 1115 1382"> <thead> <tr> <th data-bbox="559 721 674 878">(1) Work No</th> <th data-bbox="680 721 868 878">(2) Work description</th> <th data-bbox="873 721 1115 878">(3) Maximum building or other works height (m)*</th> </tr> </thead> <tbody> <tr> <td data-bbox="559 881 674 1149">41(b)</td> <td data-bbox="680 881 868 1149">Works at Pentagon Field to permanently raise the ground level *</td> <td data-bbox="873 881 1115 1149">4 metres</td> </tr> <tr> <td data-bbox="559 1153 674 1382">38(d)</td> <td data-bbox="680 1153 868 1382">Undertake earthworks, landscaping and a bund around the southern</td> <td data-bbox="873 1153 1115 1382">Bund 6 metres</td> </tr> </tbody> </table>	(1) Work No	(2) Work description	(3) Maximum building or other works height (m)*	41(b)	Works at Pentagon Field to permanently raise the ground level *	4 metres	38(d)	Undertake earthworks, landscaping and a bund around the southern	Bund 6 metres	<p>See the Authorities' explanation at D6 [REP6-111] Item 8.</p> <p>This would need to be accompanied by changes to the parameter plans.</p>	<p>The Authorities maintain their position and consider this amendment should be made.</p>
(1) Work No	(2) Work description	(3) Maximum building or other works height (m)*											
41(b)	Works at Pentagon Field to permanently raise the ground level *	4 metres											
38(d)	Undertake earthworks, landscaping and a bund around the southern	Bund 6 metres											

Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO							
No.	Provision	Amended Text	Explanation	Updated Position Deadline 8			
		<table border="1"> <tr> <td></td> <td>and eastern perimeter</td> <td></td> </tr> </table> <p>*This reflects the Authorities’ proposed amended wording for work 41</p>		and eastern perimeter			
	and eastern perimeter						
47.	Various Provisions which require local authority approval	<p>Deeming provisions</p> <p>The Authorities’ primary request is that all the deeming provisions in the various articles mentioned below should be removed. So, for example in article 12, paragraph (4) should be deleted.</p> <p>The second preference is for “or delayed” to be removed from the various articles as set out below.</p> <p>Article 12(3) (Power to alter layout, etc., of streets)</p> <p>(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority (this consent not to be unreasonably withheld or delayed).</p>	<p>The Authorities understand that the Applicants are coming forward with amendments at D7 which reflect the Authorities proposals, so these have been submitted on a precautionary basis.</p> <p>These amendments tie in with the Authorities’ response to ExA question DCO.2.9 about deemed agreement and consent if not given within a certain time.</p> <p>Whilst the Authorities consider that the deeming provisions contained in art. 12(4) and elsewhere are unnecessary, if the ExA are not persuaded, then the Authorities’ second preference would be for the words “or delayed” to be removed from those provisions which require that consent must not be unreasonably withheld or delayed. Given the deeming</p>	<p>The Authorities welcome the deletion of “or delayed” from the following articles:</p> <ul style="list-style-type: none"> • Article 12(3) • Article 14(4)(a) • Article 16(2) • Article 18(6) • Article 22(3) • Article 22(4)(a), and • Article 24(4). <p>Since there is no deeming provision in article 15(1)(c), the Authorities accept that “or delayed” does not need to be omitted from that provision.</p>			

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>Article 14(4) (Temporary closure of streets)</p> <p>(4) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of any street—</p> <p>(a) without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed; and</p> <p>(b) unless a temporary diversion to be substituted for it is open for use and has been completed to the reasonable satisfaction of the street authority.</p> <p>Article 15(1)(c) (Public rights of way – creation, diversion and stopping up)</p> <p>15.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—</p> <p>.....</p>	<p>provision, the short periods that the authorities have to respond, and the number of applications that may be made at any one time, the words are unnecessary.</p>	

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(c) temporarily close public rights of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way between terminus points, on an alignment to be agreed with the relevant highway authority (in both respects agreement not to be unreasonably withheld or delayed); and</p> <p>Article 16(2) (Access to works)</p> <p>(2) The power in paragraph (1) may only be exercised with the consent of the street authority in consultation with the relevant planning authority (such consent not to be unreasonably withheld or delayed) provided that no consent is required in respect of airport roads.</p> <p>Article 18(6) (Traffic regulations)</p> <p>(6) The undertaker must not exercise the power conferred by paragraph (3) of this article without the consent of the traffic authority</p>		

No.	Legal Partnership Authorities List of Amendments to DCO: Part 1 – Amendments to Text of DCO			Updated Position Deadline 8
	Provision	Amended Text	Explanation	
		<p>(such consent not to be unreasonably withheld or delayed).</p> <p>Article 24(4) (Authority to survey and investigate the land)</p> <p>(4) No trial holes, boreholes or excavations are to be made under this article—</p> <p>(a) in land located within a highway boundary without the consent of the relevant highway authority; or</p> <p>(b) in a private street without the consent of the street authority (save for streets within the airport),</p> <p>but such consent must not be unreasonably withheld or delayed.</p>		

Legal Partnership Authorities Proposed List of Amendments to the DCO : Part 2 – New Articles and Schedules			
Provision No.	Amended Text	Explanation	Updated Position Deadline 8
New article: Permit schemes	<p>The Authorities understand that the Applicant will be putting forward amendments to article 10 (application of 1991 Act) at D7.</p> <p>If the amendments reflect the drafting contained in article 11 of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022, the Authorities are likely to be satisfied.</p>	<p>The incorporation of the West Sussex and Surrey permit schemes into the DCO would follow recent precedent (including the two most recent DCOs made in respect of Surrey) and the application of the permit schemes should simplify the processes for street works for both the Applicant and the Authorities.</p>	<p>The amendments were incorporated into article 10 at D7 [REP7-006] and, as stated in row 168 of Part A of this document (ie the Authorities' D8 response to the Applicant's D7 Schedule of Changes), subject to the suggested drafting amendment mentioned in row 168, the Authorities are content with the drafting.</p>
New article: Lane rental schemes	<p>Application of lane rental schemes [X].—(1) The lane rental regulations apply to the construction and maintenance of the authorised development and must be complied with by the undertaker in connection with the exercise of any powers conferred by this Part. (2) In this article, “the lane rental regulations” means the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012^[1] as they apply in relation to— (a) Surrey County Council in accordance with the Street Works (Charges for Occupation of the Highway) (Surrey County Council) Order 2021^[2]; and</p>	<p>This subject is under discussion with the Applicant, and it is hoped that agreement can be reached.</p> <p>West Sussex County Council and Surrey County Council both have lane rental schemes in place for certain roads and which are used where undertaker carry out works covered by their permit schemes or under s.278 agreements. The Authorities consider that a provision that ensures they also apply to the Applicant in carrying out and maintaining streets under the powers of the DCO should be included. The amount that is charged by the Councils is governed by national regulations.</p>	<p>The amendments were incorporated into article 10 at D7 [REP7-006] and, as stated in row 168 of Part A of this document (ie the Authorities' D8 response to the Applicant's D7 Schedule of Changes), subject to the suggested drafting amendment mentioned in row 168, the Authorities are content with the drafting.</p>

	<p>(b) West Sussex County Council in accordance with the Street Works (Charges for Occupation of the Highway) (West Sussex County Council) Order 2022^[3].</p> <p>^[1] S.I. 2012/425 ^[2] S.I. 2021/402 ^[3] S.I. 2022/1257</p>	<p>The national regulations are the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012^[1]</p> <p>And the local regulations (which in turn refer to the two councils' schemes) are—</p> <p>(a) Surrey County Council in accordance with the Street Works (Charges for Occupation of the Highway) (Surrey County Council) Order 2021^[2]; and</p> <p>(b) West Sussex County Council in accordance with the Street Works (Charges for Occupation of the Highway) (West Sussex County Council) Order 2022^[3].</p> <p>More information about the schemes can be found at this link for Surrey and this link for West Sussex. The West Sussex Scheme is at this link.</p>	
<p>New Part in Schedule 9: Highway Land</p>	<p>The Authorities understand that the Applicants will be submitting revised land plans and a revised book of reference at deadline 7 which may meet the concerns of the Authorities.</p> <p>If the revised plans and book of reference do not satisfy the Authorities, they will put forward drafting at deadline 8 which will reflect paragraph 18 (land) of the protective provisions in Part 3 of Schedule 9 (protective provisions) to the draft DCO.</p>	<p>The Authorities' position on acquisition of highway land was rehearsed at CAH1 and in their post hearing submissions [REP4-056]</p>	<p>The Authorities' updated position on acquisition of highway land (including the revised land plans) is set out in the CAH2 post-hearing submission which is also being deposited at Deadline 8.</p>

Legal Partnership Authorities List of Amendments to the DCO: Part 3 – New Requirements			
Provision No.	Amended Text	Explanation	Updated Position Deadline 8
New Requirement Environmentally Managed Growth	A corrected version of the EMGF Requirement is appended to this submission at Appendix 1 .	Please see Appendix I to [REP6-100] which sets out the proposed requirement in full. Regrettably there was a technical difficulty when the requirement was transposed from Word to PDF, resulting in the paragraph numbering being lost	The Authorities maintain their position in respect of this requirement.
New Requirement Speed limit monitoring Strategy	<p>Speed monitoring and mitigation</p> <p>[X].—(1) No part of the authorised development is to commence until written details of a speed limit monitoring strategy for Airport Way and London Road (A23) has been submitted to and approved in writing by West Sussex County Council [and National Highways].</p> <p>(2) The speed limit monitoring strategy must include—</p> <p>(a) as a minimum, one survey to be carried out before construction of the authorised development commences and two surveys to be carried out after completion of the highway works, to assess the changes in traffic speed on the local [and strategic] highway network;</p>	<p>WSCC have been in discussions with the Applicant about the Road Safety Audit (RSA) associated with the highway works. In relation to Problem 3.1 in the RSA that related to reductions to speed limits on Airport Way and London Road, GAL have stated,</p> <p>"The mitigations proposed as part of the scheme and broader relevant site considerations summarised below, for each link, are considered to be sufficient mitigations at this project stage. However, it is acknowledged that in line with standard practice, speed compliance will be subject</p>	The Authorities maintain their position in respect of this requirement.

	<p>(b) the locations to be monitored and the methodology to be used to collect the required data;</p> <p>(c) the periods over which traffic is to be monitored;</p> <p>(d) the submission of survey data and interpretative report to West Sussex County Council [and National Highways]; and</p> <p>(e) a mechanism for the future approval of additional mitigation measures together with a programme for their implementation.</p> <p>(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.</p>	<p>to post opening monitoring and additional measures (including speed cameras) could be considered at that stage if deemed necessary. Such measures could be accommodated within the DCO site boundary."</p> <p>The Applicant also goes on to state:</p> <p>"Road user speeds will be subject to monitoring following completion of the scheme. If the average (mean) speed when the revised A23 London Road comes into operation is at or above 46mph (based on the WSCC policy guidance for a 40mph speed limit) further supporting measures shall be considered with due consideration of potential measures such as additional signage and road marking measures outlined in Table 3 of the West Sussex Speed Limit Policy 2022/2023 that may be considered to be appropriate for implementation at this location."</p> <p>The requirement is intended to ensure that the monitoring and potential mitigation are secured.</p>	
<p>New requirement: Odour management</p>	<p>Odour management and monitoring plan</p> <p>[X] - (1) No part of the authorised development is to commence unless an Odour Management and Monitoring Plan (OMMP) to ensure the management of aviation fuel odour and other odour</p>	<p>See paragraph 3.4.2 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]</p>	<p>Please refer to Part C of this document.</p>

	<p>emissions at the Horley Gardens Estate has been agreed in writing between the undertaker and CBC in consultation with RBBC.</p> <p>(2) The OMMP should be based on best practice and include:</p> <p>(a) a two stage study to:</p> <p>(i) determine the ambient concentrations of an appropriate marker for aviation fuel at which fuel odours are perceived on the Horley Gardens Estate;</p> <p>(ii) if the concentrations of the marker determined in subparagraph (i) exceed the limit of detection of a suitable field based monitor then such equipment is to be installed at an agreed location for a 1 year period to enable the examination of the distribution of events giving rise to aviation fuel odour;</p> <p>(b) procedures for recording, reviewing monitoring results and adjusting mitigation;</p> <p>(c) procedures for data sharing with the host authorities and reporting to the host authorities;</p> <p>(d) a complaints and resolution process;</p> <p>(e) a communications and engagement plan; and</p> <p>(f) any proposed odour mitigation measures.</p> <p>(3) The undertaker must implement the OMMP agreed under paragraph (1).</p>		
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<p>New requirement: Ultrafine particulates</p>	<p>A proposed requirement is under consideration and depending on the outcome of the s.106 negotiations may be included at D8.</p>	<p>See paragraph 3.4.1 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]</p> <p>Discussions are ongoing with the Applicant about recovery of costs generally, including ultrafine particulate monitoring costs.</p>	<p>The Authorities have no update at this time on this matter.</p>
<p>New requirement: Ground noise management plan</p>	<p>A new requirement is under consideration and may be included at D8.</p>	<p>This issue is explained in the West Sussex Authorities LIR [REP1-068] at page 234. The idea is that the plan would operate in a complimentary fashion to the noise envelope.</p> <p>As explained in the LIR, the plan would need to include:</p> <ul style="list-style-type: none"> • Predictive ground noise contours for each year. • Verification monitoring and confirmatory actual ground noise modelling. • A list of all mitigation, be they operational, physical, technological or any other mitigation. • Performance standards for the mitigation and how the performance standards are enforced. • Engagement process for monitoring and reporting to LPA and incorporating feedback including undertaking of further 	<p>(1) Ground Noise Management Plan (X)—(1) No part of the authorised development is to commence until a ground noise management plan (GNMP) has been submitted to and approved in writing by CBC (in consultation with RBBC, MVDC, and Horsham Borough Council, as appropriate).</p> <p>(2) The GNMP must –</p> <ul style="list-style-type: none"> (a) provide for the control and management of ground noise at the airport; and (b) be in accordance with the underlying principles of the Noise Policy Statement England 2010 and the Noise Policy Vision and Aims included in that document. <p>(3) The GNMP must include –</p> <ul style="list-style-type: none"> a. provision for the annual production (to CBC) of predicted ground noise contours and the contours for the preceding year, with contours presented for the day and night periods – Day, from 51 dB LAeq 16hr (the LOAEL set out in Moving Britain

		<p>studies and provision of additional mitigation.</p>	<p>Ahead) to 69 dB LAeq 16hr in 3 dB increments; and Night, from 45 dB LAeq 8hr (the LOAEL set out in Moving Britain Ahead) to 63 dB LAeq 8hr in 3 dB increments;</p> <p>b. the methodology for the ground noise modelling for the contours referred to in subparagraph (a), together with all assumptions and validation mechanisms, and provision that validation must occur at a frequency of no more than five years;</p> <p>c. the circumstances, methods and conditions under which ground noise will be monitored;</p> <p>d. a list of any existing ground noise mitigation and a means of identifying and implementing any new mitigation;</p> <p>e. an implementation plan to secure any mitigation which includes, unless otherwise agreed in writing by CBC (in consultation with RBBC, MVDC, and Horsham Borough Council, as appropriate), –</p> <p>i. limits and controls on the ground running of aircraft engines, including timings,</p>
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			<p>durations and locations at which ground running may take place;</p> <ul style="list-style-type: none">ii.a mechanism for controlling the use of stands and taxiways to minimise ground noise impacts on receptors;iii.limits on the use of auxiliary power units and ground power units;iv.details of the existing and any proposed noise barriers and bunds at the airport, including the timing of the installation of any new barriers and bunds; andv.restrictions on the towing of aircraft to and from stands and hangars at night where such movements may have a noise impact on nearby receptors;f. performance standards for any proposed mitigation; andg. a process for investigating complaints relevant to ground noise and for reporting findings, any proposed mitigation, and any action taken as a result of that mitigation, to CBC. <p>(4) The undertaker must implement the approved GNMP.</p>
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			<p>(5) No later than five years from the date of commencement of the authorised development, and every five years afterwards, the undertaker must review and make any necessary updates to the GNMP and submit that updated document to CBC (in consultation with RBBC, MVDC, and Horsham Borough Council, as appropriate) for written approval.</p> <p>(6) If the Secretary of State publishes revised levels for the LOAEL which are lower than those set out in subparagraph (3)(c), or the undertaker and CBC (in consultation with MVDC, RBBC and Horsham District Council) agree in writing to such lower levels, the contours must be produced from those revised levels to the maxima stated in subparagraph (3)(a).</p> <p>(7) In this requirement –</p> <p>(a) “day” means 07:00-23:00 in average operating mode between 16 June until 15 September inclusive; and</p> <p>(b) “night” means the period 23:00-07:00 in average operating mode between 16 June until 15 September inclusive;</p>
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			<p>(c) “ground noise” means ground noise caused by aircraft operations including airfield manoeuvring, taxiing; engine testing and auxiliary power unit operation and not including aircraft in flight, taking off or landing;</p> <p>(d) “LOAEL” lowest observable adverse effect levels; and</p> <p>(e) “Moving Britain Ahead” means the Department for Transport’s document “Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace, Moving Britain Ahead” dated October 2017.</p>
<p>New requirement: Community Annoyance</p>	<p>Aviation noise attitudes surveys</p> <p>[X] - (1) In the event that an ANAS follow up survey has not been published by the Secretary of State or the CAA by the end of 2036, the undertaker must commence an airport-specific follow up survey within 6 months of the date of the third anniversary of the commencement of dual runway operations (if that date is after the end of 2036).</p> <p>(2) The undertaker must publish the airport-specific follow up survey on its website and provide a copy of it to those host authorities which are district councils.</p>	<p>See paragraph 3.5.1 of the Authorities’ update on progress on legal agreements at deadline 6 [REP6-112]</p>	<p>The Authorities will await to see the Applicant’s D8 response to this matter and will reply as soon as possible afterwards.</p>

	<p>(3) In this paragraph—</p> <p>“ANAS follow up survey” means a noise attitudes survey carried out or commissioned by the Secretary of State or the CAA which is a follow up survey to the survey known as the Aviation Noise Attitudes Study (ANAS) 2024, that the Civil Aviation Authority has been commissioned by the Department for Transport to conduct and at the time of the making of this Order was conducting;</p> <p>“airport-specific follow up survey” means a noise attitudes survey to be carried out in relation to Gatwick Airport by the undertaker which follows the methodology used in the Aviation Noise Attitudes Study (ANAS) 2024. Any deviations from the methodology used in the Aviation Noise Attitudes Study (ANAS) 2024 are to be agreed in writing with the host authorities.</p>		
<p>New requirement: Night time noise cap</p>	<p>A new requirement is under consideration by the Authorities and may be included at D8.</p>	<p>As set out in paragraph 12.189 of the Joint Surrey Local Impact Report [REP1-098], the Authorities consider that this Requirement is necessary to ensure that the night noise levels are as modelled in chapter 14 of the Applicant’s Environmental Statement, which assumes that the current Department for Transport core night movement cap remains in place.</p> <ul style="list-style-type: none"> • In paragraph 14.12.24 of chapter 14 [APP-039], the Applicant states that ‘<i>There is an assumption that for the 42 years beyond 2047 noise levels are assumed constant in order</i> 	<p>The Authorities propose the inclusion of the following requirement in the draft DCO -</p> <ol style="list-style-type: none"> 1. Between 23:30 and 06:00 (local time) – <ol style="list-style-type: none"> a. no more than 11,200 aircraft movements may take place during the summer period; and b. no more than 3,250 aircraft movements may take place during the winter period. 2. In years where the summer period is only 30 weeks long (as opposed to 31 weeks) up to 4% of the unused summer aircraft

		<p><i>to arrive at a 60-year discounted appraisal result.</i></p> <ul style="list-style-type: none"> In paragraph 14.13.21 of chapter 14 [APP-039]) the Applicant states: <i>'Noise changes at night would be lower than during the day because it is assumed that the current night restrictions would continue to cap aircraft numbers in the 23:30-06:00 hours period'.</i> <p>In view of the government's consultation on the movement cap and the potential for the nighttime movement gap at Gatwick Airport to change in October 20254, the Authorities consider the current movement cap should be included in the dDCO by way of a requirement.</p>	<p>movement limit can be carried into the winter period.</p> <p>3. In this requirement –</p> <ol style="list-style-type: none"> "aircraft movements" means all aircraft movements with the exception of diverted or emergency flights; "summer period" means the period beginning at 01:00 GMT on the last Sunday in March and ending at 00:59GMT on the last Sunday in October; and "winter period" means the period between the end of British Summer Time in one year and the start of British Summer Time in the next.
<p>New requirement: Noise action plan</p>	<p>A new requirement is under consideration by the Authorities and may be included at D8.</p>	<p>The Authorities understand that the Requirement to Produce a Noise Action Plan ("NAP") is a regulatory requirement under the Environmental Noise (England) Regulations 2006.</p> <p>Nonetheless – as measures included in the NAP form part of the Applicant's embedded mitigation – the Authorities are considering whether a requirement should be included in the dDCO which states that, in the event</p>	<p>The Authorities propose the inclusion of the following requirement in the draft DCO</p> <p>"Any amendment to or replacement of the Noise Action Plan must not give rise to any materially new or materially different environmental effects from those identified in the environmental statement, as regards the operation or maintenance of the authorised development."</p>

		that the NAP is replaced, any future NAP shall secure the same level or more mitigation as the NAP at the date of the DCO and if the obligation to produce a NAP ceased, GAL would provide the same level of mitigation in any event.	
Landscape and Ecology Enhancement Fund/Project officer	A new requirement and/or draft unilateral undertaking is under consideration by the Authorities and depending on the outcome of the s.106 negotiations may be included at D8.	See paragraph 3.5.2 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]	The Authorities have no update on this issue at this time.
New requirement: Tree replacement	<p>Tree replacement</p> <p>[X] - (1) The undertaker must provide the total number of trees as calculated by the tree mitigation contribution formula as part of the authorised development or (if necessary) pay the tree mitigation contribution.</p> <p>(2) Prior to the commencement of any part or parts of the authorised development the undertaker must submit to CBC a landscaping plan and tree schedule for written approval by CBC and must not commence that part or parts of the authorised development until the landscaping plan and tree schedule for that part has been approved by CBC in writing.</p> <p>(3) The undertaker must plant the trees as shown on the approved landscaping plan and tree schedule as part of the authorised development in accordance with the timetable set out in the approved landscaping details plan and tree schedule and notify CBC in writing when these have been planted.</p> <p>(4) In the event that the approved landscaping plan and tree schedule identifies that the total number of trees to be provided as part of the authorised development is less than that required by the application of the tree mitigation contribution formula, the undertaker must pay the tree mitigation contribution to CBC</p>	See paragraph 3.5.1 of the Authorities' update on progress on legal agreements at deadline 6 [REP6-112]	The Authorities have no update on this issue at this time. The ExA will note the Authorities' comments on their proposed tree replacement requirement at Part C of this document.

	<p>before the commencement of the part of the authorised development which will result in the loss of the tree in question and shall not commence that part of the authorised development until it has paid the tree mitigation contribution to CBC.</p> <p>(5) In this paragraph- “landscaping plan and tree schedule” means a plan showing the landscaping details of the relevant part of the authorised development to include a schedule setting out the number and description of all existing trees to be removed (based on the information supplied pursuant to requirement 28) and the number, species and size of all new trees to be planted as part of the authorised development with a timetable for the planting of the new trees; “tree mitigation contribution” means the sum sought pursuant to Policy CH6 of the CBC development plan (or any replacement policy) and calculated in accordance with the tree mitigation contribution formula to be paid to CBC to be used towards the provision of tree planting and maintenance in the borough of Crawley or within the area of host authority which is a district council; “tree mitigation contribution formula” means the formula as set out in CBC’s Green Infrastructure Supplementary Planning Document or any document replacing it containing a formula for the payment of contributions towards providing replacement trees.</p>		
<p>New requirement: Hotel parking</p>	<p>Hotel parking</p> <p>[X]—(1) No provision is to be made at the specified hotels for parking other than parking for disabled staff and disabled visitors and for maintenance and servicing vehicles that are required for the operation of the hotel.</p>	<p>This requirement has been added as an alternative way in which to address the Authorities’ concerns about the lack of detail in the descriptions of some of the hotels which are listed in Schedule 1.</p>	<p>The Authorities maintain their position in respect of the proposed requirement.</p>

	<p>(2) No provision is to be made at the specified hotels for commuter, staff or customer parking other than for disabled persons.</p> <p>(3) In this paragraph, the “specified hotels” means the hotels described in—</p> <ul style="list-style-type: none"> a. Work No. 26; b. Work No. 27; c. Work No. 28(a). 	<p>It would place limitations on the provision of parking at the hotels listed in sub-paragraph (3) of the proposed requirement.</p>	
<p>New (Deadline 8) requirement: fixed noise management plan</p>	<p>(X)—(1) No part of the authorised development is to commence until a fixed plant noise management plan (FPNMP) has been submitted to and approved in writing by CBC (in consultation with RBBC, MVDC, and Horsham District Council, as appropriate).</p> <p>(2) The FPNMP must –</p> <ul style="list-style-type: none"> a. subject to sub-paragraph (3)(d) provide for the control and management of sounds of a commercial and industrial nature, in accordance with British Standard BS 4142:A12019; b. be in accordance with the underlying principles of the Noise Policy Statement England 2010 and the Noise Policy Vision and Aims included in that document; c. provide for – 	<p>The purpose of this requirement is to control noise of an industrial or commercial nature arising from the following plant or uses:</p> <ul style="list-style-type: none"> 1. commercial, industrial and manufacturing processes 2. fixed installations comprising mechanical and electrical plant and equipment 3. loading and unloading of goods and materials 4. mobile plant <p>This requirement is necessary as there are presently no similar controls in the draft DCO.</p>	<p>This is a new requirement added at D8.</p>

	<ul style="list-style-type: none">i.the minimisation and mitigation of any adverse effects of noise on health and quality of life from fixed plant, so far as is reasonably practicable;ii. the avoidance of any significant adverse effects on health and quality of life of noise from fixed plant;iii.the prevention of any unacceptable adverse effects of noise on health and quality of life from fixed plant;d. include –<ul style="list-style-type: none">i.confirmation that the background sound levels to be used in any assessment of fixed plant noise are the same as those set out in Table 7.1.1 of Appendix 14.9.3: Ground Noise Modelling of the Environmental Statement, or any other background sound levels determined in accordance with a methodology agreed in writing by CBC (in consultation with RBBC, MVDC, and Horsham District Council, as appropriate);ii.the techniques to assess the proposed source;iii.the process for reporting information to CBC;iv.a methodology for assessing fixed plant noise at the airport at different times of the year, such times to be agreed with CBC in writing (in consultation with RBBC, MVDC and Horsham District Council, as appropriate);v.a process for investigating complaints relevant to fixed plant noise and reporting findings, any proposed mitigation, and any action taken as a result of that proposed mitigation, to CBC.		
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	<p>(3) In this requirement “sounds of an industrial and commercial nature” includes commercial, industrial and manufacturing processes, including –</p> <ul style="list-style-type: none">a. fixed installations comprising mechanical and electrical plant and equipment;b. loading and unloading of goods and materials, including items to and from aircraft holds and to and from surface transport; andc. mobile plant. <p>(4) The FPNMP does not apply to –</p> <ul style="list-style-type: none">a. construction noise where it is subject to control under the Code of Construction Practice or a notice issued under section 60 of the Control of Pollution Act 1974 or a consent issued under section 61 of that Act;b. air noise;c. ground noise where it is subject to control under the Ground Noise Management Plan; andd. items listed in paragraph 1.3 of the British Standard BS4142:2014+A12019 <p>(5) The rating level for any fixed plant must be a rating level of at least 10 dB below the background sound level or such other level as is agreed, in writing, with CBC (in consultation with RBBC, MVDC, and Horsham District Council, as appropriate).</p> <p>(6) The undertaker must implement the approved FNMP.</p> <p>(7) In this requirement “rating level” has the same meaning as in British Standard BS 4142:A12019”.</p>		
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<p>New (Deadline 8) requirement: Wizad Plan</p>	<p>“(1) No part of authorised development is to commence until a Wizad Plan has been submitted to and approved in writing by CBC (in consultation with Horsham District Council and Mid Sussex District Council). (2) The Wizad Plan referred to in paragraph (1) must include – (a) the methodology for the assessment and calculation of the maximum annual air traffic movements using Wizad; (b) restrictions on the size and noise classification of the aircraft using Wizad; and (c) the circumstances under which Wizad may be used. (3) Notwithstanding sub-paragraph 2(c), Wizad must not be used between the hours of 19:00 – 07:00. (4) In this requirement, “Wizad” means the flight path commonly known as Wizad or Route 9, between Crawley and Haywards Heath”.</p>	<p>The Applicant previously assumed that Wizad would be used; however, as the application has proceeded, the Applicant has sought to refine its position and said that no airspace change would be required. Other comments have been made which are not aligned with this position. The Authorities consider the position is unclear and so it would be reasonable and appropriate to include this requirement in the draft DCO.</p>	<p>This is a new requirement added at D8.</p>
<p>New (Deadline 8) requirement: East Sussex Bus Service Scheme</p>	<p>1. No part of the authorised development is to commence until details of the East Sussex Bus Service Scheme (“ESBSS”) have been submitted to and approved in writing by ESCC. 2. The details referred to in sub-paragraph (1) must include funding to be provided to the bus service operator (or to ESCC should the service be procured by ESCC) for – a. provision for the extension of the existing 261 bus route (or a service replacing service 261) beyond East Grinstead to ensure a direct two-way bus service between Uckfield and the airport; b. provision for at least one hourly two-way bus service between the airport, via Uckfield, and Hellingly and Hailsham (which may be provided by extending the existing bus route or by providing another service); c. provision for a two-way hourly bus service between the airport, via East Grinstead and Forest Row, and Crowborough; d. provision for the operating hours of the bus services referred to in sub-paragraphs (2)(a), 2(b), and (2)(c) to include early mornings, evenings and weekends;</p>	<p>East Sussex County Council (“ESCC”) has argued, since the start of the process, for bus service improvements between East Sussex and Gatwick. This has mainly been pursued through ESCC’s Statement of Common Ground (SOCG) [REP5-040], where ESCC sought inclusion of specific improved bus services within the Surface Access Commitments (“SAC”).</p> <p>However, the Applicant is unwilling to meet this request and state that this can be considered for future funding through the Transport Mitigation fund. ESCC consider the Fund is likely to be oversubscribed and since they will not form part of the decision-making board, it is far from certain they will secure funding. The Applicant’s most recent SAC [REP7-043] does</p>	<p>This is a new requirement added at D8.</p>

	<p>e. a mechanism for the ESBSS to be reviewed every [five] years and updated accordingly, provided that any updated document is approved in writing by ESCC.</p> <p>3. On and from the commencement of the authorised development, the undertaker must operate the airport in accordance with the ESBSS unless otherwise agreed in writing by ESCC.</p>	<p>not address ESCC's requests for bus service improvements between East Sussex and the airport. (The Authorities' Response to the Applicant's Deadline 6 Submissions - Appendices (page 8 [REP7-104]) highlight ESCC's specific bus service improvements requests.</p> <p>The ESCC are concerned that if this matter is not satisfactorily addressed by the Applicant and the application is consented, there will be an increase in private car journeys between East Sussex and the airport due to the poor public transport connectivity.</p> <p>In the event this issue is not covered by the revised SAC that the Applicant will submit at Deadline 8, ESCC request that this requirement is included in the DCO.</p>	

Part C

Legal Partnership Authorities Comments on the ExA’s Table of Potential Requirements contained in Annex B to the Agenda for Issue Specific Hearing 9 [EV20-001]

The following table sets out the Legal Partnership Authorities detailed responses to the ExA’s table of potential requirements contained in Annex B to the Agenda for ISH9. These detailed responses should be read in conjunction with the Legal Partnership Authorities’ deadline 8 submission “ISH9: Post-Hearing Submissions on Agenda Item 3 – Mitigation”.

Req.	Text as set out in the draft DCO [REP7-005]	ExA’s Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
1		<p>Interpretation</p> <ul style="list-style-type: none"> • “average operating mode” means the operating mode (namely the easterly and westerly split of use of the runways) predominantly used or expected to be used in the particular year in question; • “average summer day” means shall mean 0700-2300 in average operating mode from between 16 June until 15 September inclusive; • “average summer night” means shall mean the period 2300-0700 in average operating mode between 16 June until 15 September inclusive; • “Eligible premises” means shall mean— <ul style="list-style-type: none"> (a) buildings at least partly used for permanent residency, education, healthcare, study and reading, worship, and community activity where, following the commencement of dual runway 	<p>Terms used in alternative requirements. ‘Eligible premises’ is intended to identify those premises where receptor-based mitigation may be necessary to achieve an internal environment, consistent with relevant standards/guidance having accounted for other noise controls.</p>	<p>The JLAs suggest the amendments shown in red to the ExA’s proposed definitions. The JLAs consider that the definitions of “average summer day” and “average summer night” should refer to single or actual operating mode, rather than the average operating mode, so far as the noise insulation scheme requirement is concerned. See comments on the noise insulation scheme requirement below.</p> <p>The JLAs are broadly content with the definition of “eligible premises” save that the criteria should, in addition to the LAeq values, also refer to the probability of at least one additional noise awakening. Again, see comments on the noise insulation scheme requirement below.</p>

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		<p>operations, air noise, ground noise or combined air and ground noise is predicted to exceed LAeq, 16 hr 54 dB on a summer day single mode; an average summer day and</p> <p>(b) buildings at least partly used for permanent residency where, following the commencement of dual runway operations air noise, ground noise or combined air and ground noise is predicted to—</p> <p>(i) exceed LAeq, 8 hr 48 dB, on an a summer night single mode; or average summer night</p> <p>(ii) result in at least one additional noise induced awakening due to aircraft noise from Gatwick Airport on a summer night single mode;</p> <ul style="list-style-type: none"> • “independent air noise reviewer” means the CAA (or such other competent body with knowledge and expertise to perform that function as appointed by CBC in consultation with the other relevant local authorities the Secretary of State from time to time); • “relevant local authorities” means CBC, Horsham District Council, RBBC, Mid Sussex District Council, Surrey County Council, TDC, MVDC and West Sussex County Council; 		

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		<ul style="list-style-type: none"> • “single operating mode” means the operating mode (namely the easterly and westerly split of use of the runways) expressed as 100% of easterly operations and 100% of westerly operations on a busy summer day or busy summer night (such days or nights to be agreed between the applicant and CBC in consultation with the relevant authorities) as the case may be; • “summer day single mode” means 0700-2300 in single operating mode between 16 June until 15 September inclusive; • “summer night single mode” means the period 2300-0700 in single operating mode between 16 June until 15 September inclusive; <p>An additional paragraph in requirement 1:</p> <ul style="list-style-type: none"> • (2) References in this Schedule to a time of day means local time; 		
8	<p>Landscape and ecology management plan Subparagraph 3 currently reads:</p>	<p>Recommended amendment to subparagraph 3: 3) Each landscape and ecology management plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the outline landscape and ecology management plan and <u>the tree planting proposals in the tree survey report and arboricultural impact assessment.</u> Each landscape and ecology management</p>	<p>Reason To ensure that each LEMP submitted for approval is in accordance with the tree planting proposals set out in ES Appendix 8.10.1 – Tree Survey Report and Arboricultural</p>	<p>The JLAs submitted a new requirement at D7 [REP7-108] which remains their preferred option, subject to the outcome of discussions on the s.106 agreement with the Applicant.</p> <p>The JLAs also note that in order to meet their concerns, the Applicant said at ISH9 that they</p>

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	<p>3) Each landscape and ecology management plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the outline landscape and ecology management plan and must include a timetable for the implementation of the landscaping works it contains.</p>	<p><u>plan</u> must include a timetable for the implementation of the landscaping works it contains.</p>	<p>Impact Assessment which sets out how the proposed tree planting will comply with CBC policy CH6.</p>	<p>would revisit the LEMP. If revisions to the LEMP meet the JLAs' concerns then they would discontinue their ask for an additional requirement on this subject.</p> <p>On the drafting of the ExA's amendments, in summary, the JLAs would not have any difficulties in principle if the Tree Survey Report and Arboricultural Impact Assessment ("TSR") properly reflected the requirements and outcomes of CBC policy CH6.</p> <p>While the JLAs are therefore supportive of the reasoning behind the principle of the ExA's proposal, they consider the drafting of the TSR and/or the LEMP requires further detail to ensure deliverability. For that reason, the Authorities confirmed at ISH9 that they prefer their draft requirement, which includes explicit reference to a potential tree mitigation contribution — a sum that could be paid if appropriate planting levels could not be achieved within the site.</p> <p>The detailed issues with the TSR are set out below:</p> <p>1. The tree calculations within the TSR (Appendix J Annexes 1 and 2) which the JLAs advised were missing prior to D7 have not been submitted into the Examination and these cannot be verified to demonstrate compliance with CH6.</p>

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				<p>2. There are still a number of uncertainties with the planting assumptions and locations proposed which are not clear.</p> <p>3 The level of detail on the tree surveys which group trees rather than counting them individually means the tree numbers have been estimated rather than counted individually.</p> <p>4 No tree schedules are being provided within the Outline Arboricultural and Vegetation Method Statement which is the proposed control document, so the tree removal plans are unhelpful.</p> <p>5 The indicative nature of all the works designs means a final layout for the works cannot be agreed at this stage and therefore the assumptions made cannot be agreed with any level of certainty.</p> <p>The JLAs would also note that if the ExA's requirement is to be taken forward, then the Tree Survey Report and Arboricultural Impact Assessment would need to be defined in article 2 (interpretation) and listed as a certified document in Schedule 14.</p>
15,16	Air noise envelope, Air noise	Air noise limits (1) From the commencement of dual runway operations, the operation of the airport shall be planned to achieve—	Reason For example, ANPS 5.60 <i>"The benefits of future technological</i>	General introduction The JLAs suggest the amendments shown in red to the ExA's proposed requirement.

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	<p>envelope reviews Text to be replaced by wording in next column.</p>	<p>(a) a predicted air noise level LAeq that—</p> <p>(i) for an average summer day is at least 0.5 dB less than the value calculated for an average summer day in 2019; and</p> <p>(ii) for an average summer night is at least 0.5 dB less than the value calculated for an average summer night in 2019; and</p> <p>(b) a reduction, for an average summer night, of the area within which more than one additional noise induced awakening due to aircraft noise associated with Gatwick Airport is predicted.</p> <p>(2) Five years after the commencement of dual runway operations, and every fifth year thereafter until 2049, the operation of the airport shall be planned to achieve—</p> <p>(a) a predicted air noise level LAeq that—</p> <p>(i) for an average summer day reduces by at least a further 0.5 dB;</p> <p>and</p> <p>(ii) for an average summer night reduces by at least a further 0.5 dB; and</p>	<p><i>improvements should be shared between the applicant and its local communities, hence helping to achieve a balance between growth and noise reduction” and include clear noise performance targets”</i></p> <p>Informative The ExA has based this draft operational noise requirement on scenario 3 of ICAO’s ‘Global trends in Aircraft Noise’ ‘technology improvements of 0.2 EPNdB per annum for all aircraft entering the fleet from 2024 to 2050.’</p> <p>It is intended to provide a clear expression of benefits sharing for all those likely to be adversely affected by aircraft noise, time for the Applicant to develop any necessary supporting processes, and an incentive for the aviation industry, which it can respond to.</p>	<p>The JLAs continue to consider that an Environmentally Managed Growth Framework will ensure the greatest certainty as regards the meeting of the relevant noise limits.</p> <p>However, if that approach were not accepted, the JLAs consider that the ExA’s approach provides greater certainty than currently suggested by the Applicant in respect of the continuing reduction in noise levels, particularly if the following detailed concerns are taken into account.</p> <p>Noise Contours vs LAeq values Important: Instead of the LAeq values in subparagraphs (1) and (2) and in the definition of “eligible premises”, the JLAs would prefer that the criteria used for measuring noise reductions be set by reference to areas within set noise contours. The ExA is referred to the Authorities’ comments on this at ISH9 and their response to Action Point 7, in which there are tables which provide indicative forecasts for the limits, by area, that the 0.5dB reduction would apply to, in response to Action Point 7.</p> <p>Whilst there are limitations to this approach, in the absence of any alternative, it is the only data upon which to base the requirement. The JLAs interpretation in providing the response to Action Point 7 was to consider progressive 0.5 dB reductions in the outer noise contour limit representing a shrinkage in the area of noise exposure during the day and night periods.</p>

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		<p>(b) a reduction, for an average summer night, of the area within which more than one additional noise induced awakening due to aircraft noise associated with Gatwick Airport is predicted.</p> <p>(3) No less than two years before the commencement of dual runway operations, and annually thereafter, the undertaker shall submit an operating plan have submitted to the relevant local authorities and the independent air noise reviewer and have had the operating plan approved by the relevant local authorities in consultation with the independent air noise reviewer. an operating plan ahead of the following summer operating season that shows that the noise limits set out in sub-paragraphs (1) and (2) shall be achieved.</p> <p>(4) All operating plans (except the first one) must be submitted at least 18 months in advance of the summer operating season to which the operating plan applies and all operating plans (including the first one) must in any event be submitted sufficiently far in advance of the summer operating season in question to enable time for the approval process to take place and to inform the declaration of capacity and allocation of slots for that season, so that the plan can demonstrate that the noise limits set out in sub-paragraphs (1) and (2) shall be achieved for that season.</p> <p>(5) The operating plan shall include but not be limited to—</p>		<p>Essentially, the JLAs converted the sound reduction to areas.</p> <p>The result is that the ExA’s proposal closely aligns with the Applicant’s central case fleet projections shown in Diagram 14.9.1 and Diagram 14.9.2 of [APP-039]. It coincides with the JLAs’ independently derived view that the central case fleet remains the most likely.</p> <p>The JLAs also highlight that the Secretary of State issued a letter on 2 August 2024 requesting information from a number of parties at Luton and the</p> <p>“... Applicant is requested to provide suggested wording for a requirement which would secure noise contour limits on the face of the Development Consent Order. This requirement should be based on the core growth predictions...”</p> <p>The Luton core growth is equivalent to the Gatwick central case fleet transition.</p> <p>Noise induced awakenings</p> <p>In addition to the 0.5dB reductions in decibels, the JLAs consider it essential that there should be an objective to ensure that from the date of commencement of operations and after, the area within which it is calculated that more than one additional noise awakening will occur is progressively reduced.</p>

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		<p>(a) the establishment of quota count budgets (“QC budgets”) for day (07:00-23:00) and night (23:00-07:00) operations for each year and scheduling season relevant to the allocation of slots at the airport;</p> <p>(b) any other measures proposed by the undertaker to ensure that the allocation of slots to airlines secures that the noise limits as outlined in sub-paragraphs (1) and 2) shall not be breached.</p> <p>(6) The QC budget will be defined using the noise quota system as defined in the CAA's Aeronautical Information Publication (AIP) or otherwise agreed with the relevant local authorities in consultation with the independent air noise reviewer.</p> <p>(7) The QC budget should be determined by reference to regression analysis of the relationship between scheduled quota counts and actual noise contours from the previous ten years of operation excluding 2020 to 2022.</p> <p>(8) As soon as reasonably practicable after the end of each summer operating season, after the commencement of dual runway operations, the undertaker shall publish their report to the independent air noise reviewer and the relevant local authorities showing—</p>		<p>Data provided by the Applicant</p> <p>The JLAs say that caution should be exercised in interpreting the data for the central case provided by Gatwick because in addition to fleet composition, the area within the noise contour is also influenced by passenger demand, and therefore flight numbers. The JLAs do not agree with the Applicant's position about demand. The central case as proposed by the Applicant is based on predictions of more passengers and more aircraft than the JLAs consider will occur. Reducing the assumptions about the number of aircraft will reduce the area within the noise contour.</p> <p>The uncertainty involved in the Applicant's approach and lack of access to information contribute to the reasons why the JLAs cannot be more precise in their response to the ExA's proposed amendments, and provide amendments which are based on the noise contour methodology. Further consideration can be given to how this can be achieved before Deadline 9.</p> <p>At the very least, the JLAs consider that the central case fleet contour areas on the Diagrams 14.9.1 and 14.9.2 in [APP-039] which the proposed 0.5dB reduction tracks under the ExA's proposal should be the upper limit of any predicted area but the</p>

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		<p>(a) the calculated noise performance of the airport informed by actual noise measurements, compared with the noise limits set out in sub-paragraphs (1) and (2) with an explanation of any exceedances;</p> <p>(b) a full breakdown of the allocation of quota counts in the operational management system;</p> <p>(c) a report on airlines' compliance with the allocated QC management system;</p> <p>(d) a report on the correlation between the QC management system for both the day and night period with the forecast QC budget by reference to the predictive forecasts;</p> <p>(e) the anticipated QC value of slots that are proposed to be released in the next slot allocation and the predicted impact of that upon the contour areas using both QC and ANCON forecast techniques;</p> <p>(f) any proposals identified for the improvement of the QC operational management system for approval by the relevant local authorities in consultation with the independent air noise reviewer.</p> <p>(9) If CBC, in consultation with the independent air noise reviewer and the other relevant local authorities, considers that any exceedances reported in sub-paragraph (8) are caused by factors within the control of</p>		<p>JLAs cannot state how much further the area under the noise contour is likely to reduce.</p> <p>Explanation of amendments <i>Sub-paragraphs (1) and (2)</i> Both sub-paragraphs are amended to incorporate reference to additional noise induced awakenings. The Applicant must provide comprehensive information on the extent of additional noise induced awakenings for all assessment years. <i>Sub-paragraphs (3) and (4)</i> These new sub-paragraphs are included to ensure that the operational plan process takes account of the time that is needed for the operation plan process. A new sub-paragraph (8) has been added to provide some clarity over the area within which the predictions and measurements referred to in sub-paragraphs (1) and (2) are made/taken. <i>Sub-paragraphs (5), (6) and (7)</i> These paragraphs provide more detail about what should be contained in the operational plans, and in particular the JLA's proposition that QC budgets should be used. <i>Sub-paragraphs (9) and (10)</i> In addition to the amendments which place responsibilities on the relevant local authorities rather than the independent noise reviewer, the JLAs have included a safeguard to ensure that the applicant cannot easily avoid action under the</p>

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		<p>the undertaker, the undertaker shall modify its approach to the development of its operating plan for the following year to meet the noise limits set out in sub-paragraphs (1) and (2).</p> <p>(10) When considering whether any exceedances reported in sub-paragraph (4) are caused by factors within the control of the undertaker, CBC may take into account whether the undertaker could have taken reasonable steps to have avoided those exceedances, despite those factors, and if CBC is of the opinion that the undertaker could have taken such steps, then the undertaker must still modify its approach as mentioned in sub-paragraph (6).</p> <p>(11) The undertaker must take all reasonable steps to comply within reasonable timescales with any reasonable request for information relating to this requirement made in writing by any of the relevant local authorities.</p> <p>(12) The undertaker must reimburse the relevant local authorities for any expenses reasonably incurred by it in exercising any functions under this requirement.</p>		<p>requirement by claiming that there were factors outside its control. <i>Sub-paragraph (11)</i> The JLA have mentioned on a number of occasions the difficulties they have had when making reasonable requests for information relating to noise. They therefore consider there should be an explicit requirement on the applicant to provide it. The JLAs understand if the ExA considers that the provision should be outside the requirements. <i>Sub paragraph 12</i> Makes provision for the relevant local authorities to recover their costs</p>
18	Noise Insulation Scheme	Receptor based mitigation	Reason: For example, ANPS 5.68 'Development consent should	The Legal Partnership Authorities welcome and support the proposed changes by the ExA subject

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	Text to be replaced by wording in the next column	<p>(1) Within not more than 3 months following the start date commencement of any of Work Nos. 1—7 (inclusive) the undertaker shall submit for approval by the relevant local planning authority—</p> <p>(a) a forecast list of premises forecast to be eligible premises at the commencement of dual runway operations,</p> <p>(b) details of the package of measures referred to in subparagraph (2).</p> <p>(2) Within not more than 6 months following the start date commencement of any of Work Nos. 1—7 (inclusive) the undertaker must take appropriate steps, having consulted with the relevant local planning authority, to notify the owners and occupiers of all premises on the approved list (1) that the premises has been approved for the design, installation, and maintenance of a package of measures that may include ventilation, noise insulation and methods to reduce solar gain to achieve an internal noise environment consistent with guidance.</p> <p>(3) Within not more than 12 months following the start date commencement of any of Work Nos. 1—7 (inclusive) the undertaker must, subject to access being granted to the premises, carry out a survey of all the premises on the</p>	<p>not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:</p> <ul style="list-style-type: none"> • <i>Avoid significant adverse impacts on health and quality of life from noise;</i> • <i>Mitigate and minimise adverse impacts on health and quality of life from noise; and</i> • <i>Where possible, contribute to improvements to health and quality of life.’</i> <p>Informative It is considered that local planning authorities should play a role in the design of receptor based mitigation, particularly on behalf of local communities. Designs proposed may affect the appearance of the local built environment and may involve features that would normally require consent, including listed</p>	<p>to the points described below relating to the proposed definition of “eligible premises”. “Eligible Premises” See the JLA’s suggested amendments to the proposed new definition of “eligible premises” set out above. <i>Additional Noise Induced Awakening</i> The JLAs refer to the comments and explanation offered in [REP7-103] paras 15.14 to 15.28.</p> <p>These build on comments in [REP1-068], [REP1-069], [REP1-100] [REP3-117], [REP5-094], [REP6-108] in relation to this matter.</p> <p>According to the Heathrow website Quieter neighbourhood support Heathrow the Heathrow scheme eligibility is based on the probability of more than one additional awakening. <i>Definition of eligible premises so noise contours are based on single operating mode</i> The definition of eligible premises should be based on single mode contours, but using the ExA’s proposed wording, due to the proposed definitions of “average summer day” and “average summer night”, it would be based on the extent of the average modal split of runway usage (75/25 West/East split). Average mode is useful for comparing noise between years. But actual splits vary year on year. For example in 2016 the split was 85/15 West/East and in 2014 the split was 64/36. Using only the average mode</p>

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		<p>approved list and submit, for approval by the relevant local planning authority, proposed designs for all premises on the approved list.</p> <p>(4) The designs submitted by the undertaker and the consideration of them by the relevant local planning authority must have due regard for guidance including—</p> <p>(a) Sound Insulation and Noise Reduction for Buildings BS 8233 British Standards Institution (2014),</p> <p>(b) Methods for rating and assessing industrial and commercial sound BS 4142 British Standards Institution (2014),</p> <p>(c) Acoustic design of schools: performance standards BB93 Department for Education (2015) and Acoustics—Technical Design Manual 4032 Department for Health (2011) as relevant,</p> <p>(d) Institute of Acoustics Professional Practice Guidance: Planning and Noise,</p> <p>(e) The Approved Document (overheating) that supports Part O of Schedule 1 to the Building Regulations 2010,</p> <p>(f) Planning Noise Advisory Document - Sussex November 2023.</p> <p>(5) Subject to agreement by the owner of the premises and access being granted to the premises, the design approved by the relevant local planning authority shall be installed and</p>	<p>building consent. The take up of such schemes may also be improved through the involvement of the local planning authorities by providing assurance to owners and occupiers that due process has been followed and the designs offered have been appropriately scrutinised against relevant standards.</p>	<p>qualifying for a noise insulation package will probably result in people who should qualify in a given year not receiving noise insulation. Individuals do not experience noise on an average basis across the period. Therefore to ensure good design and secure improvements in accordance with national policy as well as protect people, the noise insulation scheme should consider the single mode operation of the airport and thereby be offered on the basis of contours on a single mode basis.</p> <p>Costs In line with representations made at ISH9, the JLAs have included a provision which would enable local authorities to recover their reasonable costs.</p>

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		<p>commissioned before the commencement of dual runway operations.</p> <p>(6) The undertaker must reimburse the relevant local planning authority for any expenses reasonably incurred by it in exercising any functions under this requirement.</p>		
20	<p>Surface Access 20. From the date on which the authorised development begins the operation of the airport must be carried out in accordance with the surface access commitments unless otherwise agreed in writing with CBC and National Highways (in consultation</p>	<p>Surface Access 20—(1) From the date on which the authorised development begins the operation of the airport must be carried out in accordance with the surface access commitments unless otherwise agreed in writing with CBC and National Highways (in consultation with Surrey County Council and West Sussex County Council). (2) <u>[First] use of the following airport facilities mentioned in sub-paragraphs (2), (3) and (4) shall not be permitted until the respective mode shares set out in those sub-paragraphs below have been demonstrated to have been achieved in the Annual Monitoring Report, unless otherwise permitted by CBC.</u> <u>(2) In this sub-paragraph—</u> <u>(a) the mode share to be achieved is at least 54% of passengers travelling to the airport used public transport in the monitored year;</u> <u>(b) Should this public transport mode share not be achieved then the airport facilities that are not to be used are—</u> <u>Undertaker shall not use the following:</u> <u>(i) simultaneous operational use of the northern runway;</u></p>	<p>To ensure that the impacts of the development as described in the Transport Assessment and the consequential effects set out in the Environmental Statement are not greater than those assessed within the Application.</p>	<p>The JLAs maintain their primary position which is the environmentally managed growth proposal which has been explained on a number of previous occasions, and is the subject of a draft requirement submitted at D7. If the Applicant were to revisit the SACs in order to meet the concerns of the JLAs which the ExA seek to address through R20, the JLAs will consider any amendments put forward and confirm if they are content at D9. As mentioned elsewhere, the JLAs have made substantial progress in their discussions with the Applicant on the terms of the SACs, but until agreement is reached, their position is that (in the absence of EMGF) the ExA’s revised wording of requirement 20 is welcomed. The ExA is referred to the post-hearing written submissions in support of the ExA’s proposed amendments. Some minor drafting amendments to the EXA’s proposed amendments have been set out in red. One point which the JLAs are not clear about is whether the reference to “first” use in sub-paragraph (1) was intended, so this has been put in square brackets.</p>

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	<p>with Surrey County Council and West Sussex County Council).</p>	<p><u>and</u> <u>(ii) Pier 7 and associated stands.</u> <u>(3) In this sub-paragraph—</u> <u>(a) the mode share to be achieved is at least 55% of passengers travelling to the airport used public transport in the monitored year;</u> <u>(b) the airport facilities that are not to be used are—Should this public transport mode share not be achieved then the Undertaker shall not use the following:</u> <u>(i) the South Terminal Hotel Phase 2 on the former car park H; and</u> <u>(ii) the use of multi storey car Park Y.</u> <u>(4) In this sub-paragraph—</u> <u>(a) the mode share to be achieved is not more than 44.9% of staff travelling to the airport were car drivers in the monitored year.</u> <u>(b) the airport facilities that are not to be used are Should this car driver mode share be exceeded then the Undertaker shall not use the South Terminal Office (on former car park H).</u> <u>(3) In this requirement the “Annual Monitoring Report” means [this will need to be defined]</u></p>		
New		<p>Removal of permitted development rights relating to the provision of additional car parking</p> <p>(1) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 8, Class F – Development at an airport (or any order revoking and re-</p>	<p>To ensure that the impacts of the development as described in the Transport Assessment and the consequential effects set out in the Environmental Statement are not greater than those assessed within the Application.</p>	<p>The Authorities welcome the removal of permitted development rights, as suggested by the ExA, for the reasons set out in various earlier representations.</p> <p>The Authorities will of course consider any proposals by the Applicant as an alternative</p>

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		<p>enacting that Order with or without modification), no additional car parking shall be provided at the airport unless otherwise permitted by CBC.</p> <p>(2) In sub-paragraph (1) "additional car parking" means car parking spaces other than spaces specifically authorised to be provided under this Order.</p>		<p>means of achieving the same objective but the Authorities would want to be reassured that any proposed cap put forward by the Applicant on parking numbers would be capable of enduring for the lifetime of the operation, and would indirectly exclude the provision of additional parking within the perimeter of the Airport.</p> <p>The authorities have suggested a clarificatory amendment in red.</p>
21	<p>Carbon Action Plan 21. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the carbon action plan unless otherwise agreed in</p>	<p>Carbon action plan 21. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the carbon action plan unless otherwise agreed in writing with the Secretary of State (following consultation with CBC).</p>	<p>To ensure that the relevant planning authority can use its knowledge of the local area to advise the Secretary of State. Additionally, the CAP should be modified to make provision for CBC to be provided with the Monitoring Report and to be consulted on any Action Plan required in the event that further interventions are required and to be consulted when the CAP is reviewed.</p>	<p>The Applicant has confirmed that they would be happy to make changes to the CAP to align with the ExA's amendment (which CBC welcome) and would submit an updated CAP to reflect the proposals.</p> <p>The Authorities welcomed the Applicant's proposal but confirmed that they would respond formally when they had seen the revised text following Deadline 8.</p>

Req.	Text as set out in the draft DCO [REP7-005]	ExA's Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
	writing with the Secretary of State.			
New		<p>Housing Fund (1) No part of the authorised development may commence until a Housing Fund Plan, covering both the construction and operation phases, has been submitted to and approved in writing by CBC (in consultation with East Sussex County Council, Horsham District Council, Mid Sussex District Council, West Sussex County Council, Kent County Council, Surrey County Council, MVDC, RBBC and TDC) (2) The Housing Fund Plan must be implemented as approved pursuant to sub-paragraph (1).</p>	<p>The ExA is aware of the on-going discussions between parties in respect of the possible obligation to establish a Housing Fund to mitigate the Proposed Development's impact on housing delivery as regards affordable housing and temporary accommodation. Nevertheless, the ExA notes the evidence provided by the Authorities in respect of concerns regarding an existing lack of affordable, temporary and emergency housing. Given the increase in both construction workers and operational staff to the locality, the ExA considers it necessary to ensure, via a Housing Fund, additional pressures on affordable and temporary are fully mitigated.</p>	<p>The JLAs welcome the opportunity to comment in this proposed requirement, which seeks to secure mitigation that the authorities maintain is required. At the time of submission of this document, the JLAs maintain that mitigation in the form of a Housing Fund would be most appropriately secured via a planning obligation in the section 106 Agreement and are currently hopeful that agreement can be reached with the Applicant for such purposes.</p> <p>If agreement is not reached prior to Deadline 9, the Authorities will present a draft Requirement to the ExA, which would be in line with comments made at ISH9 as to what would need to be secured.</p>
25	Operational waste management plan	<p>Operational waste management plan (1) <u>Works to construct</u> the replacement CARE facility (Work No. 9) must not <u>commence until an</u> operational waste management plan <u>has been submitted to and approved in writing by West Sussex County Council.</u></p>	<p>To bring forward the approval of the OWMP ahead of the construction of the replacement CARE facility. This would be to prevent a situation where the</p>	<p>The proposed change and reason for the change made by the ExA is supported.</p>

Req.	Text as set out in the draft DCO [REP7-005]	ExA's Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
	<p>(1) The replacement CARE facility (Work No. 9) must not be brought into routine operation until the undertaker has submitted an operational waste management plan to West Sussex County Council for approval.</p> <p>(2) The operational waste management plan submitted under sub-paragraph (1) must be substantially in accordance with the operational waste</p>	<p>(2) The operational waste management plan submitted under sub-paragraph (1) must be substantially in accordance with the operational waste management strategy.</p> <p>(3) The airport must be operated in accordance with the operational waste management plan approved by West Sussex County Council unless otherwise agreed in writing with West Sussex County Council.</p>	<p>existing CARE facility has been removed and the replacement facility has been constructed but can't be brought into operation if the OWMP is not approved.</p>	

Req.	Text as set out in the draft DCO [REP7-005]	ExA's Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
	<p>management strategy. (3) The airport must be operated in accordance with the operational waste management plan approved by West Sussex County Council unless otherwise agreed in writing with West Sussex County Council.</p>			
<p>New</p>		<p>Air Quality Monitoring (1) In consultation with the host authorities, and prior to the commencement of dual runway operations, the undertaker shall develop an operational air quality monitoring and management plan, to be approved by CBC in consultation with RBBC, and which shall be implemented following the commencement of dual runway operations. (2) The plan referred to in sub-paragraph (1) should be a framework document that makes provision for forward looking plans for successive 5 year periods and must remain</p>	<p>Reason: For example, 5.35 to 5.41 of the ANPS regarding monitoring the effectiveness of mitigation measures included in the authorised development</p>	<p>In addition to the matters mentioned in proposed new sub-paragraph (3), to help the Applicant to produce its action / management plan the Authorities would expect to see the following information provided for each of the proposed actions (taken from DEFRA's action plan template), and would expect this to form the basis of the action / management plan template:</p> <ul style="list-style-type: none"> • Measure No.

Req.	Text as set out in the draft DCO [REP7-005]	ExA's Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
		<p>in force until 2047 or until the airport is at capacity of 386,000 commercial movements per year, whichever is sooner.</p> <p>(3) The plans referred to in sub-paragraph (1) and (2) should include—</p> <p>(a) an explanation of which of the measures in the plan are embedded mitigation, namely measures the airport has already assumed are in place in its air quality assessment, so it is possible to assess if these measures are on track given the air quality assessment is dependent on all of these measures being implemented successfully.</p> <p>(b) provision for additional measures intended to help mitigate the increased airport related pollution as reflected by the difference in the emissions inventories for the 'with' and 'without' project scenarios.</p> <p>(4) The Applicant must comply with the plans referred to in sub-paragraphs (1) and (2) and provide annual monitoring reports to CBC and RBBC.</p>		<ul style="list-style-type: none"> • Measure • Estimated Year Measure to be Introduced • Estimated / Actual Completion Year • Estimated Cost of Measure • Measure Status • Target Reduction in Pollutant / Emission from Measure • Key Performance Indicator • Progress to Date • Comments / Potential Barriers to Implementation
New		<p>Odour management and monitoring plan</p> <p>(1) The commencement of dual runway operations must not take place until an odour management and monitoring plan to ensure the management of aviation fuel odour and other odour emissions at the Horley Gardens Estate has been submitted to and approved in writing by CBC in consultation with RBBC.</p> <p>(2) The odour management and monitoring plan submitted under sub-paragraph (1) must be substantially in accordance with the outline odour management and monitoring plan.</p>	<p>To ensure procedures are in place to monitor and manage impacts related to odour, in particular for residents of the Horley Gardens Estate. This new requirement is based on the JLA's suggested requirement in [REP7- 108]. It is suggested by the ExA that the Odour Reporting Process Technical Note [REP7-094]</p>	<p>The JLAs consider that mitigation is required, and this requirement provides it. If the Applicant were to come forward with an alternative proposal that satisfies the JLAs before D9 then the JLAs will notify the ExA.</p>

Req.	Text as set out in the draft DCO [REP7-005]	ExA's Recommended Amendment / Insertion showing any suggested changes from the JLAs in red	ExA Reasons and Notes	JLA notes
		<p>(3) The odour management and monitoring plan submitted under sub-paragraph (1) should include a two stage study to:</p> <ul style="list-style-type: none"> (i) determine the ambient concentrations of an appropriate marker for aviation fuel at which fuel odours are perceived on the Horley Gardens Estate; (ii) if the concentrations of the marker determined in sub-paragraph (3)(i) exceed the limit of detection of a suitable field based monitor then such equipment is to be installed at a location agreed with CBC for a 1 year period to enable the examination of the distribution of events giving rise to aviation fuel odour; <p>(4) The airport must be operated in accordance with the odour management and monitoring plan approved by CBC unless otherwise agreed in writing with CBC.</p>	<p>could form the basis of an outline odour management and monitoring plan referred to in subparagraph (2) and is expanded to procedures for recording, reviewing monitoring results and adjusting mitigation;</p> <ul style="list-style-type: none"> • procedures for data sharing with the host authorities and reporting to the host authorities (The ExA note that the reporting process referred to in [REP7-094] only refers to the reporting of complaints rather than the reporting of monitoring results); • a complaints and resolution process (The ExA note that [REP7-094] includes the complaints process. However, the process appears to end with reporting and responding to the complaint rather than a resolution process); • a communications and engagement plan; and • any proposed odour mitigation measures. 	

Legal Partnership Authorities

Gatwick Airport Northern Runway DCO (TR020005)

PART D

LEGAL PARTNERSHIP AUTHORITIES COMMENTS ON THE APPLICANT’S RESPONSES TO EXQ2 – QUESTIONS ON THE DRAFT DEVELOPMENT CONSENT ORDER [REP7-081]

ExQ2	Question to:	Question and Applicant’s Answer	Legal Partnership Authorities Response
Development Consent Order and Control Documents			
DCO.2.1	Local Authorities Applicant	<p>Art. 2 (Interpretation) Definition of commencement The SoCGs between the Applicant and Surrey County Council (SCC) [REP5-051] and between the Applicant and West Sussex County Council (WSCC) [REP5-055] describe discussions in respect of the definition of commencement as under discussion. The local authorities are asked to clarify their current position with particular reference to which of the items (a) to (o) are still in dispute. The Applicant is asked to provide specific reasons for the inclusion of items (a) to (o).</p> <p>Paragraphs 3.4.1 to 3.4.4 of the Explanatory Memorandum to the Draft Development Consent Order [REP6-007] explain the rationale and justification for the definition of 'commence' in article 2 of the draft Development Consent Order [REP6-005], which apply equally to each of the activities in sub-paragraphs (a) to (o) of the definition. In particular, the activities specified in the definition are all preceded by at least one of the Sizewell C (article 2), Manston Airport (article 2) or M25 J28 (article 2) DCOs or align with emerging drafting submitted in the draft London Luton Airport Expansion DCO (Schedule 2, Part 1). The only bespoke provision is sub-paragraph (n) (establishment of temporary haul roads), which has been included as a separate limb for clarity, though the stated activity falls within the scope of other more generally worded exceptions from 'commence' in precedent DCOs (e.g. 'construction of temporary structures').</p>	Please see row 1 of Part B to this document for the Authorities' updated position on this issue.

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		<p>The Applicant has had regard to the Government's recent updated guidance on the contents of a DCO – <i>Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects</i> (April 2024) in preparing subsequent updates to the dDCO and notes in respect of this definition:</p> <p><i>“Commencement” is a key definition in a DCO as the authorised development cannot legally commence until all pre-commencement requirements have been discharged. For this reason, having received development consent, developers may seek to carry out site surveys and some preliminary works without formally “commencing” the authorised development, while working through the process of discharging pre-commencement requirements. To do this, DCOs normally contain a definition of commencement which allows for specified preliminary works that will not be considered a material operation which begins the development in accordance with section 155 of the Planning Act.</i></p> <p><i>The definition of commencement must not provide for preliminary works which are so extensive that they would be likely to have significant environmental effects themselves, and would normally need consideration and approval by the discharging authority prior to such works starting. Typical examples of matters which are not acceptable preliminary works include major earthworks, clearance of trees and ground clearing, activities affecting protected species or archaeological remains, unless appropriate controls are secured in another manner.”</i></p> <p>In cognisance of the second paragraph and the specific reference to appropriate controls being needed to justify the inclusion of certain activities in the definition, the Applicant has been deliberate in ensuring appropriate mitigation/control documents are applicable to <u>all activities</u> under the DCO,</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response						
		<p>including the preliminary works excluded from the definition of 'commence' in sub-paragraphs (a) to (o).</p> <p>All pre-commencement activities will be subject to the Code of Construction Practice (Doc Ref. in 5.3) (CoCP) and its associated management plans (see requirement 7); in respect of archaeology ES Appendix 7.8.1: Written Schemes of Investigation for Surrey [REP2-017] and West Sussex [APP-106] (see requirement 14); the ES Appendix 5.4.2: Carbon Action Plan [APP-091] (see requirement 21) and the ES Appendix 11.9.6: Flood Resilience Statement [REP6-052] (Annex 6) (see requirement 24). Where relevant kinds of works are to be carried out, the need for a construction dust management plan (see requirement 27), soil management plan (see requirement 29) or arboricultural and vegetation method statement (see requirement 28) would be triggered.</p> <p>To take each activity in turn:</p> <table border="1" data-bbox="594 841 1615 1424"> <thead> <tr> <th data-bbox="594 841 1115 878">Activity excepted from 'commence'</th> <th data-bbox="1115 841 1615 878">Explanation and/or key controls</th> </tr> </thead> <tbody> <tr> <td data-bbox="594 878 1115 1073">(a) remedial work in respect of any contamination or adverse ground conditions</td> <td data-bbox="1115 878 1615 1073">This is required, and controlled by, requirement 9 (contaminated land and groundwater), which provides for local planning authority and Environment Agency involvement.</td> </tr> <tr> <td data-bbox="594 1073 1115 1424">(b) environmental (including archaeological) surveys and investigation</td> <td data-bbox="1115 1073 1615 1424">Requirement 14 (archaeological remains) applies to pre-commencement activities and requires compliance with ES Appendix 7.8.1: Written Scheme of Investigation for Surrey [REP2-017] and ES Appendix 7.8.2: Written Scheme of Investigation for West Sussex [APP-106] for</td> </tr> </tbody> </table>	Activity excepted from 'commence'	Explanation and/or key controls	(a) remedial work in respect of any contamination or adverse ground conditions	This is required, and controlled by, requirement 9 (contaminated land and groundwater), which provides for local planning authority and Environment Agency involvement.	(b) environmental (including archaeological) surveys and investigation	Requirement 14 (archaeological remains) applies to pre-commencement activities and requires compliance with ES Appendix 7.8.1: Written Scheme of Investigation for Surrey [REP2-017] and ES Appendix 7.8.2: Written Scheme of Investigation for West Sussex [APP-106] for	
Activity excepted from 'commence'	Explanation and/or key controls								
(a) remedial work in respect of any contamination or adverse ground conditions	This is required, and controlled by, requirement 9 (contaminated land and groundwater), which provides for local planning authority and Environment Agency involvement.								
(b) environmental (including archaeological) surveys and investigation	Requirement 14 (archaeological remains) applies to pre-commencement activities and requires compliance with ES Appendix 7.8.1: Written Scheme of Investigation for Surrey [REP2-017] and ES Appendix 7.8.2: Written Scheme of Investigation for West Sussex [APP-106] for								

ExQ2	Question to:	Question and Applicant's Answer		Legal Partnership Authorities Response
			archaeological investigations. Pre-construction surveys are also subject to the CoCP (per requirement 7), including sections 4.3 and 5.4.	
		(c) investigations for the purpose of assessing ground conditions	Similarly to the above, investigations are subject to requirement 9 (contaminated land and groundwater), requirement 14 (archaeological remains) and requirement 7 (code of construction practice).	
		(d) site or soil surveys	Subject to requirement 7 (code of construction practice) and, where soil is to be removed, the requirement for a soil management plan (requirement 29).	
		(e) erection of fencing to site boundaries or marking out of site boundaries	Controlled by the CoCP (per requirement 7), including sections 4.5.9, 4.6.3, 4.6.4 and 4.9.9.	
		(f) removal of hedgerows, trees and shrubs	Article 25 (felling or lopping of trees and removal of hedgerows) applies to such activities. Further, an arboricultural and vegetation method statement must be submitted for approval under requirement 28 prior to any vegetation or tree clearance.	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>(g) installation of amphibian and reptile fencing</p> <p>(h) diversion or laying of services</p> <p>(i) ecological mitigation measures</p> <p>(j) receipt and erection of construction plant and equipment</p> <p>(k) erection of temporary buildings and structures</p>	<p>Controlled by the CoCP (per requirement 7) and specifically the annexed Outline Reptile Mitigation Strategy [REP5-067].</p> <p>Subject to the CoCP (per requirement 7) and the protective provisions for electricity, gas, water and sewage undertakers and for operators of electronic communications code networks in Schedule 9 of the dDCO.</p> <p>Subject to the suite of control documents detailed above – most relevantly requirements 7 (code of construction practice), 28 (arboricultural and vegetation method statement) and 29 (soil management plan).</p> <p>Subject to the CoCP (per requirement 7), including the working hours in section 4.2.</p> <p>Subject to the CoCP (per requirement 7), including the controls on temporary construction compounds (where the vast majority of any temporary buildings and structures are anticipated to be erected) in section 4.5 and the new drafting for any other temporary</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>buildings and structures added at Deadline 7 in paragraph 4.5.11.</p> <p>(l) site preparation and site clearance</p> <p>(m) establishment of construction compounds</p> <p>(n) establishment of temporary haul roads</p> <p>(o) temporary display of site notices, advertisements or information</p> <p>The aggregate effect of these control documents ensures there is no 'gap' in control or oversight of those preliminary works, and any necessary corresponding mitigation for the works is in place.</p> <p>The description of the activities themselves are self-explanatory and their corresponding relevance to the construction of the authorised development similarly self-evident, and the Applicant does not consider there is specific additional reason/explanation that could be added in their respect that isn't otherwise covered above.</p> <p>It is understood that the JLAs have a particular concern regarding the inclusion of limbs (k) and (m), the erection of temporary buildings and</p>	
		<p>Subject to requirements 7 (code of construction practice), 28 (arboricultural and vegetation method statement) and 29 (soil management plan).</p> <p>Subject to the CoCP (per requirement 7), including the controls and height limits in section 4.5.</p> <p>Subject to the CoCP (per requirement 7), including the new specific drafting added at Deadline 7 in paragraph 4.5.12.</p> <p>Subject to the CoCP (per requirement 7), including new specific drafting added at Deadline 7 in section 5.8.3.</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>structures and establishment of construction compounds respectively and have indicated their request for the deletion of such limbs. The Applicant has clarified that the removal of these activities from the definition of 'commence' would not mean that the activities cannot be carried out or otherwise provide any correlative 'approval' right to the JLAs in their respect. Rather, it would simply mean that the activity would instead trigger the requirement to discharge other 'commencement' related requirements, which the Applicant does not consider have any necessary relevance to those preliminary activities. All necessary controls in their respect are detailed in the above table.</p> <p>It is hoped that the above additional explanation will address any residual concerns that remain from the JLAs in respect of the drafting approach in this definition and, to the extent any such concerns remain, the Applicant would query why they aren't in fact a concern with the control documents rather than the definition of 'commence'.</p>	
DCO.2.4	Local Authorities	<p>Art. 6 (Limits of Works) Art. 6(3) of the dDCO seeks to ensure that the maximum heights on the parameter plans are not exceeded. Why are heights only subject to this control and not other dimensions such as width and depths? Amend Schedule 13 to include these other dimensions and provide further justification for the heights being '<i>informative</i>' or exclude this term.</p> <p><u>Controls on widths and depths</u> Article 6(1) requires that each numbered work is situated within the lateral limits (i.e. width and depth) of the corresponding numbered area shown on the Works Plans [REP6-009]. These plans constrain the outer bounds of the lateral location and size of each numbered work and ensure that its detailed design, once progressed, will remain within the <i>Rochdale</i> envelope assessed as part of the Applicant's Environmental Statement.</p>	<p>Please see row 46 of the Authorities' Consolidated Submission on the draft DCO [REP7-108] for the latest position on Schedule 13. As stated in Part B of this document, the Authorities maintain the position set out in the Consolidated Submission.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>The parameters secured through article 6 (limits of works), the Works Plans [REP6-009] and the Parameter Plans [REP6-011] reflect the 'worst-case' envelopes that formed the basis of the Applicant's Environmental Impact Assessment and are therefore appropriate maximum dimensions to be secured.</p> <p>Specific provision is made for the surface access works in article 6(2) to reflect that there is, in practice, no bright-line distinction between Work Nos. 35, 36 and 37 where they interface and in article 6(4)(b) by reference to the 'Surface Access Works Lateral Limits' shown on the Parameter Plans [REP6-011].</p> <p><u>Schedule 13</u></p> <p>As explained above, article 6 – by reference to the Works Plans [REP6-009] and, for the surface access works, the 'Surface Access Works Lateral Limits' on the Parameter Plans [REP6-011] – secures the maximum lateral extents of each numbered work. This is the clearest and most appropriate form of securing these limits and the contents of these plans cannot easily be transferred into tabular form.</p> <p>As indicated at ISH 8 (see paragraph 2.2.15 of the Applicant's Written Summary of Oral Submissions – ISH8 – Draft DCO [REP6-083]), Schedule 13, which records height restrictions, is informative and the Parameter Plans [REP6-011] are the primary source of the height restrictions to which the authorised development is subject. This reflects that for some numbered works there is not a single height restriction for the whole work area or there are areas within the numbered area on the relevant Work Plan that are not subject to the height restriction (e.g. due to existing structures).</p> <p>By way of example, the drawing ending 990131 (e-page 25 of the Parameter Plans [REP6-011]) shows varying height restrictions across the work area for Work No. 43 (water treatment works), to reflect the significantly varying</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>ground level in this area. It would be difficult and potentially confusing to translate these varying height restrictions into tabular form and the visualisation in the Parameter Plans [REP6-011] is considered vastly more useful for discharging authorities and contractors who will need to apply these restrictions. The informative table records the range of height restrictions for this work and includes a footnote to refer to the Parameter Plans [REP6-011] for the specific geographical extent of each limit.</p> <p>In version 9 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9), the Applicant has added an obligation to submit a 'compliance statement' when it submits design or drainage details for consultation with the relevant local authority or for approval in the case of listed works (under requirements 4 and 10). This statement will set out how the Applicant's submitted details comply with the parameters secured by article 6 (limits of works) and will therefore assist the discharging authorities carry out their review function in this regard.</p>	
DCO.2.5	Applicant	<p>Art. 8 (Consent to transfer benefit of Order) Art. 8(4)(b). Include '(office areas)' after Work Numbers (Work Nos.) 10(g) for consistency?</p> <p>As drafted in the dDCO [REP6-005], article 8(4)(b) states "<i>in relation to a transfer or a grant relating to any part of Work Nos. 10(h), 11(d) (office and welfare facilities), 16 (new aircraft hangar), 26, 27, 28 or 29 (hotels), any registered company.</i>" For clarity, 'office and welfare facilities' is included in the brackets after '11(d)' in the article as a descriptor for both Work Nos. 10(h) and 11(d) in the same way as '(hotels)' is included as applicable to each of Work Nos. 26 to 29 in the same subparagraph to that article. The Applicant does not consider a drafting change is needed on that basis; however, should the ExA disagree and prefer the edit to be made then the Applicant will be happy to address following receipt of the ExA's proposed schedule of changes to the dDCO in advance of Deadline 9.</p>	<p>The Authorities have no comments in respect of the Applicant's answer DCO.2.5.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>The Applicant has relatedly amended article 8(4)(b) of the dDCO (Doc Ref 2.1) at Deadline 7 to clarify that Work No. 28(b) is the construction of an office and 28(a) is the construction of a hotel.</p>	
DCO.2.6	Applicant Local Authorities	<p>Art.9 (Planning Permission) In respect of Art. 9(4) the Applicant has stated that no prescribed mechanism is required as regards potential incompatibility under this sub-paragraph [REP5-037]. The Applicant is requested to provide further justification for the inclusion of this sub-paragraph and any precedent for it. The local authorities are asked to confirm and explain whether any modifications to the subparagraph could be made to make it acceptable or whether they wish to see its removal. In respect of Art. 9(5) the Applicant and the local authorities are invited to expand on their positions as set out during ISH8.</p> <p>Article 9 (4) Article 9(4) provides that any condition of a planning permission granted prior to the date of the Order that is incompatible with the requirements of the Order or the authorised development shall cease to have effect from the date the authorised development is commenced. As noted previously (see e.g. paragraph 4.1.24 of the Applicant's Written Summary of Oral Submissions from ISH 2: Control Documents / DCO [REP1-057]), other than the existing conditions regarding the use of the northern runway pursuant to the 1979 planning permission (ref. CR/125/79) that are currently applicable to the Airport (i.e. condition 3 limiting it to emergency use only and condition 4 regarding the existing western noise mitigation bund), the Applicant is not aware of any other planning conditions (through its own investigations, or from submissions made by the JLAs to date) that would be impacted by article 9(4). The Applicant has expressed this same position in response to the JLAs</p>	<p>Article 9(4) The Authorities' updated position in respect of article 9(4) is set out in row 4 of Part B of this document.</p> <p>Article 9(5) Please see the Authorities' latest position on the application of article 9 to permitted development rights, as set out in the Authorities' Post Hearing Submission on ISH9 which is submitted at Deadline 8. The relevant text is next to the "Surface Access" column and under the sub-heading "Oral Submissions on the removal of permitted development rights relating to the provision of additional car parking".</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>previously, who have suggested that if that is the case, then the wording of the article should be narrowed to instead only address the specific 'incompatible' condition applicable to the use of the northern runway. Whilst that is an option, the Applicant would submit that it is better to retain the 'failsafe' effect of the article as drafted to deal with the (admittedly unlikely) scenario where either the Applicant or one of the JLAs become aware of the existence of a planning permission with a condition that is otherwise incompatible with a requirement under the dDCO or the authorised development more generally and that could otherwise then create difficulties for the on-going implementation of/compliance with that historic permission in terms of <i>Hillside</i> for the reasons explained in paragraphs 4.31 to 4.41 of the Explanatory Memorandum [REP6-007]. The Applicant also considers its drafting approach to be preferable as such 'incompatibility' with any historic condition would necessarily only occur where specific alternative provision on the same matter had been included in the dDCO (so causing the inconsistency). The existence of a historic planning permission by itself doesn't lead to an incompatibility and so trigger article 9(4) – it is only where there is a condition which due to its wording has such inconsistency with the dDCO and/or the authorised development. In those circumstances, it must surely follow that it is preferable for the DCO's terms to have primacy in respect of that incompatibility, but for the rest of the terms of that historic planning permission to otherwise continue. In such circumstance there would be no 'gap' in terms of controls or mitigation.</p> <p>Article 9(4) is materially the same in effect as article 56(3) in the draft Lower Thames Crossing DCO, which provides that to the extent that compliance with any conditions of a planning permission is inconsistent with the exercise of any power, right or obligation under the Order, no</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>enforcement action may be taken under the 1990 Act in relation to compliance with those conditions.</p> <p>The Applicant does, however, appreciate the importance of the JLAs' development management and planning enforcement responsibilities and so, in an effort to provide some comfort and clarity in relation to the scope and effect of this clause, the Applicant has provided additional wording in version 9.0 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9) which obliges the Applicant, where it identifies an incompatibility between a condition of a planning permission and the Order that engages paragraph (4), to notify the relevant planning authority as soon as reasonably practicable about the existence of the incompatibility.</p> <p><u>Article 9(5)</u></p> <p>Article 9(5) provides that the Order does not prevent persons from seeking or implementing separate planning permission (including pursuant to permitted development rights) for development within the Order limits. This provision merely expressly states the existing position at law (in order to make this clear in light of <i>Hillside</i>), that the grant of a DCO for an area does not sterilise that area from any future grant of planning permission or use of permitted development rights.</p> <p>There is precedent for such a provision: article 6(2) of the A66 Northern Trans-Pennine Development Consent Order 2024 provides that "<i>Subject to article 8 (application of the 1991 Act), nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under, the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015</i>", thereby expressly clarifying that the undertaker's permitted development rights were unaffected by the DCO. The M20 Junction 10a Development Consent Order 2017 includes a near-identical provision at article 37.</p>	

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		<p>The Applicant has commented on the JLAs' position that article 9(5) should be amended so as to remove the Applicant's permitted development rights on a broad and untargeted basis across the Project site at row 6 of its Response to the Local Impact Reports - Appendix C - Response to DCO Drafting Comments [REP3-081] and in response to DCO.1.21 in its Response to Deadline 4 Submissions [REP5-072]. The Applicant continues to strongly resist this.</p> <p>The Applicant understands from the JLAs' Post-Hearing submission on agenda item 8: Draft Development Consent Order [REP6-110] that the JLAs' primary concerns underlying their position relate to potential development on Museum Field, Pentagon Field and the reed beds (i.e. Work No. 43) (particularly car parking on those sites) and development of further car parking across the airport more broadly. In respect of the former, the Applicant has added new article 9(7) in version 9.0 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9) in an effort to provide comfort to the JLAs, which provides that:</p> <p><i>(7) The undertaker must not exercise the permitted development right in Class F of Schedule 2 to the 2015 Regulations for—</i></p> <ul style="list-style-type: none"> <i>a. any development on the areas labelled Work No. 38 (habitat enhancement area and flood compensation area at Museum Field) or Work No. 43 (water treatment works) on the works plans; or</i> <i>b. any development of car parking on the area labelled Work No. 41 (ecological area at Pentagon Field) on the works plans.</i> <p>The Applicant wishes to preserve its ability to carry out potential non-car parking development on Pentagon Field in future as this site has been identified as potentially suitable for development such as solar panels, provided that such development could be carried out in compliance with any LEMP approved for that area (to which the Applicant would be bound under requirement 8 of the dDCO). To confirm, there is no such</p>	

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		<p>development currently anticipated and this is simply provided as an illustrative example of the type of development which could conceivably come forward outside of, but complementary to, the Project authorised development. In that context, the Applicant does not consider it appropriate to further limit its development potential in line with its existing permitted development rights.</p> <p>In relation to car parking across the wider site, the Applicant considers there is no justification for a more general, site-wide, removal of permitted development rights for on-airport car parking given the effective controls/provisions of the Surface Access Commitments [REP6-030] which require the Applicant to maintain and enhance sustainable mode shares through the use of a toolkit of measures, including parking controls and pricing.</p> <p>As detailed in the Applicant's Written Summary of Oral Submissions - ISH 8 Car Parking [REP6-079], the Applicant considers that its approach of managing airport parking within a wider sustainable surface access strategy is appropriate and enables the Applicant to respond flexibly to ensure there is no "under-supply" of car parking which could lead to detrimental effects off-airport (for example, fly parking issues) whilst ensuring the mode share commitments are met and it has set up a framework of measures to support that approach.</p> <p>The Applicant has a historic record of consistently achieving high sustainable mode shares (which Crawley Borough Council has acknowledged previously in the context of car parking appeals with which the Applicant has engaged) whilst simultaneously bringing forward car parking. In addition, the Applicant included additional provisions in Commitment 8A of the Surface Access Commitments [REP6-030] submitted at Deadline 6 which are consistent with the approach in the existing 2022 Section 106 Agreement and which require the Applicant to</p>	

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		<p>provide no more additional on-airport public car parking spaces than necessary to achieve a combined on and off airport supply that is consistent with the mode share commitments. The Applicant has sought to address specific concerns raised by the JLAs in respect of individual areas within the Order limits (Museum Field and Pentagon Field) in terms of the potential use of permitted development rights to bring forward car-parking. To the extent there are further concerns regarding particular sites/areas, then the Applicant is happy to consider them; however, it does not consider there is any evidence or justification to support a more general disapplication of its permitted development rights across the airport. For completeness, paragraphs 4.37 to 4.41 of the Explanatory Memorandum [REP6-007] describe other extant and emerging precedent for the Applicant's drafting in article 9. To the extent further precedent emerges in the course of this examination, the Applicant will reflect on such drafting and update the dDCO and ExM where appropriate/necessary.</p>	
DC0.2.7	Applicant Local Authorities	<p>Art. 10 (Application of the 1991 Act) The SoCG between the Applicant and SCC [REP5-051] indicates that the Applicant is considering the implications of the highway authority's permit scheme. The Applicant and the local authorities are asked to provide an update on discussions on this matter and should its incorporation within Art.10 not be possible, the Applicant is to provide its reasons. The Applicant has met with Surrey and West Surrey County Councils to discuss their respective permit schemes. The Applicant is keen to work positively with the authorities to minimise traffic disruption during construction of the relevant works and considers that incorporating the permit schemes into the dDCO would be a positive step towards helping the authorities meet their strategic objectives.</p>	<p>The Authorities note the amendments made by the Applicant to article 10 at Deadline 7 [REP7-006]. As stated in row 168 of the Authorities' D8 response to the Applicant's D7 Schedule of Changes, the Authorities are content with these amendments, save for the following drafting amendment –</p> <p>Paragraph (7) states the permit and land rental schemes "... will be used by the undertaker in connection with the exercise of any powers conferred by [Part 3 of the DCO]".</p> <p>The Authorities would expect to see "must be used" rather than "will be used" (because "will be" raises the question "when will it be</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>The Applicant has included new drafting in article 10 (application of the 1991 Act) of the dDCO submitted at Deadline 7 (Doc Ref. 2.9 v9) which incorporates the following permit schemes made under Part 3 of the Traffic Management Act 2004:</p> <ul style="list-style-type: none"> a. the Traffic Management (Surrey County Council) Permit Scheme Order 2015 (as varied); and b. the West Sussex County Council Permit Scheme Order 2016 (as varied). <p>This amendment confirms that the above permit schemes apply and will be used by the Applicant in connection with the construction and maintenance of the authorised development, subject to the qualifications concerning the conditions which can be imposed on a permit and the resolution of disputes (which reflect the standard drafting of precedent DCOs including the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022 and Southampton to London Pipeline Development Consent Order 2020).</p> <p>The Applicant therefore considers this matter to be resolved.</p>	<p>used?” and so creating uncertainty; there is no such uncertainty with “must be used”).</p>
DCO.2.8	Applicant	<p>Art. 11 (Street works)</p> <p>The Applicant is asked to provide a schedule of the streets affected by Art.11 in lieu of ‘<i>any of the streets as are within the Order limits</i>’.</p> <p>The Applicant is also asked why Art 11(1) is not ‘subject to the consent of the street authority’?</p> <p><u>Schedule of streets</u></p> <p>The Applicant has previously set out why it does not consider it necessary to include a schedule of streets to which article 11 applies, including in response to DCO.1.22 in the Applicant’s Response to ExQ1: Development Consent Order and Control Document [REP3-089].</p>	<p>The Authorities note the Applicant has not provided a schedule of streets and would therefore suggest that the street works powers proposed under article 11 should be subject to the street authority’s consent. Absent any consent provision, there is a risk of streets being interfered with at inappropriate times which would be detrimental to the undertaker and street authority. The Authorities</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>To supplement that explanation, at this stage of detailed design the Applicant does not yet know in which streets it will need to carry out street works. It cannot therefore provide a schedule of streets for which article 11 will <i>definitively</i> be required. If the Applicant were to prepare and include a schedule, it would therefore have to list <u>all</u> streets within the Order limits, which would be of limited benefit to any interested party. If the Applicant were to add such a list of streets to the dDCO, the scope and effect of article 11 would remain the same as presently (given that it currently applies to <i>"any of the streets as are within the Order limits"</i>). If the JLAs had concerns about the power applying to particular streets, they would raise these and the Applicant would consider removing them from the schedule. However, the JLAs can already raise such specific concerns by reference to the various plans submitted with the Application, from which the JLAs can see the streets that fall within the Order limits. The JLAs can raise such concerns and the Applicant can make specific provision in article 11 (if justified) to carve these streets out of the power – thereby achieving the same outcome. The Applicant has flagged the need for the JLAs to communicate any concerns about particular streets in e.g. its Response to Deadline 4 Submissions [REP5-072] and various of the SoCGs with the JLAs and to date has not been made aware of any such concerns.</p> <p><u>Street authority consent</u></p> <p>Article 11 is targeted at works to utilities apparatus in or under streets, as can be seen from the list in article 11(1). Such works have little lasting effect on the use of the streets in question and therefore should not require street authority consent in the same manner as, for example, article 12 (power to alter layout, etc., of streets) which authorises more significant works. Further, to the extent that streets (other than those within the airport) need to be temporarily closed for the carrying out of</p>	<p>would therefore propose that article 11 should be amended as follows –</p> <p>11.—(1) The undertaker may, for the purposes of the authorised development and subject to the consent of the street authority, enter on so much of any of the streets as are within the Order limits and may— ...</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>the authorised development, article 14(4) (temporary closure of streets) provides that this can only be undertaken with street authority consent. No amendment to article 11 to provide for street authority consent is therefore required, nor is it (so far as the Applicant is aware) currently requested by the JLAs.</p> <p>The Applicant's drafting for article 11 is precedented as described in paragraph 5.11 of the Explanatory Memorandum [REP6-007].</p>	
DC0.2.9	Applicant Local Authorities	<p>Art. 12 (Power to alter layout, etc. of streets)</p> <p>The Applicant's position is that deeming provisions (included in Art.12(4) and elsewhere) are justified and appropriate [REP3-081]. The local authorities wish to see all deeming provisions removed from the DCO.</p> <p>The parties are requested first to identify any way in which deeming provisions could be modified in a way which may be acceptable to either party and secondly, if agreement cannot be reached, their final position in respect of a deeming provision.</p>	
		<p>The Applicant does not propose to repeat its previous submissions as to the justification for the deeming provisions within the dDCO, with paragraphs 8.28 to 8.32 of the Explanatory Memorandum [REP6-007] setting out the principal rationale and justification for their inclusion and further specific comment provided in row 9 of the Applicant's Response to the Local Impact Reports - Appendix C - Response to DCO Drafting Comments [REP3-081] as the ExA's question notes.</p> <p>The Applicant maintains those submissions and does not consider there to be a modification possible to the deeming provisions which preserves their effect and which would otherwise alleviate the JLAs' previously submitted concerns (which go to the principle of deeming provisions more generally) However, it is understood that the principal element of their concern in relation to the deeming provisions is additional wording regulating the</p>	<p>The Authorities welcome the deletion of "or delayed" from the following articles –</p> <ul style="list-style-type: none"> • Article 12(3) • Article 14(4)(a) • Article 16(2) • Article 18(6) • Article 22(3) • Article 22(4)(a), and • Article 24(4).

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>provision of 'consent' in relevant articles/requirements to the dDCO which also provide for the relevant authority's consent <i>'not to be unreasonably withheld or delayed'</i> (for example, and relevant to this question, article 12(3)). The concern is understood to be that it is not reasonable to include provision for 'unreasonable delay' in circumstances where there is also a deeming provision. The Applicant does not agree that the two provisions are incompatible as it is readily conceivable that there could still be unreasonable delay in providing a consent within the 56-day period allocated for a decision to be reached, notwithstanding the prospect of a deemed consent following at the end of that period. However, the Applicant is content to make that change and delete the provision regarding 'unreasonable delay' from the relevant drafting in order to address the JLAs' concerns and allow the deeming provisions to otherwise be included in the DCO. The Applicant has done so in version 9.0 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9).</p>	
DCO.2.10	Applicant Local Authorities	<p>Art. 14 (Temporary closure of streets)</p> <p>The Applicant is asked to consider whether Art. 14(1) should be amended to specify the streets affected in a Schedule. If not, why not? The Applicant and local authorities are asked to provide further justification for their respective positions in respect of the local authorities' suggested additional sub-paragraph after Art. 14(5) as set out in AS-029.</p> <p>The Applicant does not consider it necessary to specify streets to which article 14 applies in a schedule because the exercise of this power is subject to the consent of the street authority in paragraph (4)(a) and the street authority can therefore scrutinise the streets over which the Applicant proposes to exercise the power on a case-by-case basis. In respect of the latter point, following discussions between the Applicant and the JLAs the Applicant added new paragraph (4)(b) in version 8 of the dDCO</p>	<p>In respect of the first point, the Authorities note the Applicant's statement that a schedule of streets is not required because of the consent provision included in the article. On reflection, the Authorities agree and consider the same approach should therefore be followed in article 11 (street works). Per the Authorities response to this question in their Response to ExQ2 [REP7-110], the second issue is closed.</p>

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		submitted at Deadline 6 [REP6-005] which implements the drafting requested by the JLAs.	
DCO.2.11	Applicant	<p>Art. 22 (Discharge of water)</p> <p>Thames Water states that there has been a change of wording from the standard wording from 'construction' to 'carrying out'. It indicates that this new phrasing creates unnecessary ambiguity and may lead to the inclusion of the operation of the development which Thames Water would object to.</p> <p>Explain why non-standard wording has been included.</p> <p>The Applicant does not agree that the wording of article 22 is a departure from standard wording and it is unclear to the Applicant on what basis the alternative wording referenced by Thames Water was considered to be 'standard'.</p> <p>This element of article 22 as currently drafted accords with article 14 of the Model Articles, which states: "<i>The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project...</i>". Further, the Applicant's drafting mirrors that in many made DCOs including article 15 of the Hornsea Four Offshore Wind Farm Order 2023, article 19 of the A57 Link Roads Development Consent Order 2022 and article 16 of the Manston Airport Development Consent Order 2022.</p> <p>The above was communicated to Thames Water in bilateral discussions on the drafting of the dDCO and the Applicant understands that Thames Water no longer maintains any objection to the drafting of article 22.</p>	The Authorities have no comments in respect of this question.
DCO.2.12	Applicant Local Authorities	<p>Art. 25 (Felling or lopping of trees and removal of hedgerows)</p> <p>Department for Levelling Up, Housing and Communities (DLUHC) 'Guidance on the content of a DCO required for a Nationally Significant Infrastructure Project' (April 2024) states that applicants</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>may wish to include an article to allow the removal of hedgerows without the need to first secure consent under the Hedgerows Regulations 1997. It states that such an article can either refer to the specific hedgerows intended for removal described clearly in a Schedule or drafted to include powers for general removal of hedgerows subject to appropriate controls and mitigation being included.</p> <p>Should there be a schedule referencing specific hedgerows? Does Art. 25 provide appropriate controls and mitigation? If not, what additions should be made to the article?</p> <p>The Applicant notes the recent DLUHC guidance cited by the ExA, which is similar in content to <i>Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders</i> (July 2018) on this point. However, it is noted in particular that the new guidance states that a power for general removal of hedgerows may be included "<i>subject to appropriate controls and mitigation being included</i>" rather than needing to be subject to the later consent of the local authority, as was stated in <i>Advice Note Fifteen</i>.</p> <p>The weight of precedent in recently made DCOs is for articles that authorise the removal of hedgerows within the Order limits without separate local authority consent and without reference to a specific schedule of hedgerows. For example, article 17(6) of the A66 Northern Trans-Pennine Development Consent Order 2024, article 31(4) of the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 and article 34(4) of the Manston Airport Development Consent Order 2022 all take this approach and authorise the removal of any hedgerow within the Order limits.</p> <p>The Applicant's article 25 offers greater protection than these precedents in that it provides that the undertaker may only lop or remove a hedgerow if it reasonably believes it to be necessary to prevent the hedgerow from</p>	<p>The Authorities maintain the position set out in response to this question in their Response to ExQ2 [REP7-110].</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>obstructing or interfering with the construction, maintenance or operation of the authorised development or related apparatus, or to prevent an imminent danger to persons or property, rather than the broader precedented wording that the removal is "required".</p> <p>The Applicant's article 25 also offers the largely unprecedented protection that works must be carried out in accordance with British Standard 3998:2010 (Tree work – Recommendation), as previously requested by the JLAs, and includes the standard entitlement to compensation should persons suffer loss or damage from the works authorised by the article.</p> <p>Additionally, as per requirement 28, an arboricultural and vegetation method statement must be submitted for approval before any 'tree or vegetation clearance' is carried out. This provides an additional control – with approval – prior to the clearance of any hedgerows.</p> <p>In light of the above considerations, the Applicant considers that article 25 (alongside requirement 28) provides appropriate controls and mitigation for the inclusion of a general power for removal of hedgerows within the Order limits. This is further supported by the fact that the Applicant has not identified any 'important hedgerows' (as per the meaning in the Hedgerows Regulations 1997) that will be affected by the authorised development.</p>	
DCO.2.13	Applicant IPs Applicant	<p>Art 31 (Time limit for exercise of authority to acquire land compulsorily)</p> <p>The Applicant is seeking to exercise its powers to acquire land or interests within 10 years beginning on the start date.</p> <p>Is there a precedent for the inclusion of the 'start date' within Art. 31?</p> <p>As both the time period and use of the start date rather than the date on which the Order is made are uncommon features of made DCOs, is there a potential compromise between the time period and exercising of the authority?</p>	<p>The Authorities' position on this article is set out in row 172 of Part A of this document.</p>

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		<p>The equivalent article 21 of the Manston Airport Development Consent Order 2022 utilises a 'start date' defined in the same way the Applicant has proposed in its equivalent definition, by reference to the later of the expiry of the period for legal challenge under section 118 of the Planning Act 2008 or the final determination of any such legal challenge. In addition, article 26 of the draft London Luton Airport Expansion DCO and article 27 of the draft Lower Thames Crossing DCO each use the same definition in the same way in their equivalent articles. Accordingly, the Applicant considers there to be existing and emerging precedent for the use of the term in this article 31 (and within the corresponding article 38 (time limit for exercise of authority to temporarily use land for carrying out the authorised development) and requirement 3 (time limit and notifications)) and the Applicant has explained in the corresponding paragraphs 7.18, 7.49 and 9.13 to the Explanatory Memorandum [REP6-007] the specific justification for its use in this Application's DCO.</p> <p>Relatedly, the Applicant has explained in previous submissions (e.g. its Response to ExQ1 [REP3-089], DCO.1.29) and at paragraphs 7.19 and 7.49 of the Explanatory Memorandum [REP6-007] the justification for the ten year period sought in respect of the exercise of the compulsory acquisition powers under the DCO – primarily to enable the use of temporary powers to enable the construction of the authorised development and only exercise permanent compulsory acquisition powers by exception and proportionately to the final area of land necessary post construction. A forced exercise of compulsory acquisition powers earlier in the construction programme would give rise to the potential for a less discriminate approach to the acquisition so as to preserve necessary flexibility and not inhibit the ability to deliver the Project. The Applicant considers ten years to be justifiable and preferable; however, to the extent it would serve to alleviate the JLAs' concerns, it is content to reduce this term to seven years after the</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>'start date'. The Applicant has made this amendment in version 9.0 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9) as a compromise as invited in this question.</p>	
DCO.2.15	Applicant	<p>Art. 40 (Special category land) The Applicant is asked to explain why the vesting of the open space land in the undertaker should not wait until a scheme for the provision of replacement land as open space has been implemented.</p>	
		<p>The Applicant refers to section 3.2 of its Note on Acquisition of Special Category Land and Provision of Replacement Land [REP4-041] which explains the necessity for, legality of and precedent for the Applicant's approach in this regard.</p>	<p>The Authorities have no comments in respect of this answer.</p>
DCO.2.16	Applicant	<p>Art 49 (Defence to proceedings in respect of statutory nuisance) The Statement of Statutory Nuisance [APP-265] cites various types of statutory nuisance and provides the Applicant's justification for their inclusion in Art. 49. The SoCG with CBC states that the Applicant is <i>'unlikely to need to rely upon article 49, but it is appropriate and necessary (for the reasons immediately above) that it is available if required'</i>. The Applicant is asked to provide further justification for its position and specifically for all of the sub-sections of section 79(1) of the Environmental Protection Act which the local authorities object to.</p>	
		<p>For the reasons set out in response to DCO.1.37 in the Applicant's Response to ExQ1 [REP3-089] and in the Applicant's 'Updated position (April 2024)' in row 2.7.1.7 of the Statement of Common Ground with Crawley Borough Council [REP5-037] cited by the ExA, the Applicant respectfully considers that the JLAs' concerns with article 49 are based on a misunderstanding of its effect and the relationship between article 49 and section 158 of the Planning Act 2008. The Applicant reiterates the submissions made in those cited documents.</p>	<p>The Authorities maintain the position set out in row 12 of Part B of this document.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>Section 158 of the Planning Act 2008 provides general statutory authority for carrying out development for which consent is granted by a DCO and doing anything else authorised by a DCO, so as to provide a defence to any civil or criminal proceedings for nuisance. This is a general and broad defence which the Applicant can avail itself of, subject to any contrary provision in the DCO. Article 49 is such contrary provision and, therefore, including limbs of statutory nuisance within article 49 reduces the types of nuisance to which the general defence in section 158 applies because, for those types of nuisance, article 49 applies instead. Therefore, the JLAs' request that provisions be removed from article 49 appears to the Applicant contrary to the JLAs' stated goal of tightening standards for the Applicant.</p>	
		<p>Schedule 1 (Authorised development) <u>Work Nos. 26, 27, 28 and 29</u> On what basis is parking to be provided at the hotels and how would this relate to CBC's policies in relation to parking. Accordingly, justify why these Work Nos. should not specify the number of hotel bedrooms and the number of parking spaces.</p>	
DCO. 2.17		<p>There is no parking provision proposed for the hotels forming part of the Project and covered by Work Nos. 26, 27, 28 and 29 as part of the dDCO (Doc Ref. 2.1) (save for parking provision for disabled users and servicing). The multi-storey car park included as Work No. 28(c) is proposed on the existing Car Park H, together with the other development specified in Work No. 28(a, b, d and e) including a new hotel (referred to as the 'Car Park H hotel'). However, the proposed multi-storey Car Park H (Work No. 28(c)) is not proposed in connection with the Car Park H hotel (Work No. 28(a)). The multi-storey Car Park H is proposed to accommodate air-passenger car parking to replace the existing car parking permanently lost by the Project, as set out in Table 5.2.3 of ES Chapter 5: Project Description [REP6-013].</p>	<p>The Authorities welcome confirmation that no hotel parking is to be provided at the new hotels, except for disabled users and servicing. The Authorities consider this needs to be clearly defined, as in proposed wording set out as a new Requirement on p72 of JLP submissions on the draft DCO [REP7-108] to limit hotel parking to disabled staff and disabled visitors, and for maintenance and servicing of the hotel.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>For the reasons set out above in response to DCO.2.6, and as explained further at paragraph 2.2.5 of The Applicant's Written Summary of Oral Submissions - ISH8 - Draft DCO [REP6-083] and paragraph 2.1.4 of the The Applicant's Response to Actions ISH8 - Draft DCO [REP6-089], the Applicant does not consider it necessary to specify numbers of car parking spaces for each proposed carpark as it considers these matters are adequately controlled by the Design Principles (Doc Ref. 7.3), Works Plans (Doc Ref. 4.5), Parameter Plans (Doc Ref. 4.7) and the Surface Access Commitments (Doc Ref. 5.3).</p> <p>Similarly, the Applicant does not consider it necessary to specify a number of hotel bedrooms/bedspaces in the work descriptions for Work Nos. 26, 27, 28(c) and 29, which are the proposed hotels. All numbered works are limited in lateral extent by the Works Plans (Doc Ref. 4.5). Save for Work No. 29 (converting the existing Destinations Place office into a hotel), which is the conversion of an existing building, the three new hotel buildings are also constrained by height parameters in the Parameter Plans (Doc Ref. 4.7). These maximum constraints (secured through article 6 (limits of works) of the dDCO) represent the worst-case 'Rochdale envelope' that was assessed in the Applicant's Environmental Statement. How the hotels are built out within that envelope, and therefore the exact number of rooms that they will comprise, is a matter for detailed design and should not be prescribed by the work descriptions in the dDCO.</p> <p>In any event, the proposed new hotels (Work Nos. 26, 27 and 28(a)) are works listed in Schedule 12 (non-highway works for which detailed design approval is required) and will be subject to detailed design approval by CBC under DCO requirement 4(4). Prior to submission of detailed design approval, these works will also be subject to an independent review by a Design Adviser as detailed in Annex A of the Design Principles (Doc Ref. 7.3).</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
DCO.2.18	Applicant	<p>Schedule 1 (Authorised development) Various Work Nos. use the term 'approximately' eg Work Nos. 30, 31, 35-38 and 41. Why should the more precise wording of 'no less than' as used in Work No. 40 not be used in each case?</p> <p>In response to ExQ2 DCO.2.18, the application has amended the description of Work No. 41 (ecological area at Pentagon Field) in Schedule 1 of the dDCO (Doc Ref. 2.1) to replace 'approximately' with 'no less than'. The Applicant has not made the requested change to the remaining referenced Work Nos. for the reasons stated below:</p> <ul style="list-style-type: none"> • Work Nos. 30(a), 31(b) and 38(a) – in these cases, the use of the word 'approximately' relates to the volumes of flood compensation areas and attenuation storage. These works have been designed to a (conservative) feasibility level and will be subject to more detailed analysis through the detailed design process that could result in the required storage volumes being refined (and potentially reducing). The works will be designed to achieve the same objective, namely to ensure that there is no increase in flood risk to other parties. • Work Nos. 35 to 37 – for these works, the use of the word 'approximately' indicates lengths of new and revised roads as part of the proposed South Terminal, North Terminal and Longbridge Roundabout junction improvements. At the detailed design stage, the surface access highway works will be subject to further design development within the horizontal and vertical limits of deviation set out in article 6 (limits of works) of the dDCO (Doc Ref. 2.1). As part of this design development, changes to the position and size of junctions and / or refinements to the horizontal or vertical alignments of a given road may result in minor reductions (or 	<ul style="list-style-type: none"> • The Authorities' updated comments on Work No.30 (which are wider than the points covered in the Applicant's response) are set out in row 17 of Part of this document. • The Authorities' updated comments on Work No.31 (which are wider than the points covered in the Applicant's response) are set out in row 18 of Part of this document. • The Authorities' updated comments on Work No.38 (which are wider than the points covered in the Applicant's response) are set out in row 21 of Part of this document. • The Authorities' updated comments on Work No.41 (which are wider than the points covered in the Applicant's response) are set out in row 5 of Part of this document.

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>increases) in lengths of the highway assets. Changing the word 'approximately' to 'no less than' for these Work Nos. would introduce an arbitrary restriction on the detailed design which may restrict the ability of the Project to deliver solutions that would be accepted by the relevant highway authorities in accordance with the detailed design approval process described in requirements 5 (local highway works – detailed design) and 6 (national highway works) of the dDCO (Doc Ref. 2.1). It should also be noted that the drafting (using 'approximately') adopted in the dDCO is similar to drafting in recent DCOs brought forward by National Highways, including in the A417 Missing Link Development Consent Order 2022 and the draft Lower Thames Crossing DCO.</p>	
DCO.2.20	Applicant National Highways	<p>Schedule 2 (Requirements) <u>R3 Time Limit and Notifications</u> The Applicant and NH are engaging on the matter of reference to a 'provisional certificate' which is not defined in the main body of the DCO or Schedule 2. As the term is used in Requirement (R) 6(3) why can it not be defined? Is there a relevant precedent for the definition of terms. NH may wish to comment.</p>	
		<p>Whilst 'provisional certificate' is not defined in the main body of the DCO or Schedule 2, the wording of sub-paragraph (3) to requirement 6 contextualises its term by noting "<i>...an application to National Highways for a provisional certificate pursuant to paragraph 8 of Part 3 of Schedule 9...</i>" (emphasis added), and such term is defined in the protective provisions for National Highways contained in that Part 3 of Schedule 9 to the dDCO (Doc Ref 2.1). For completeness, the term is defined as "<i>the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by</i></p>	<p>The Authorities have no comments on this issue.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p><i>National Highways in accordance with paragraph 8 when it considers the specified works are substantially complete and may be opened for traffic".</i></p> <p>The Applicant considers this existing wording to be clear and is not aware of National Highways having any concern on the framing of this element of the requirement; however, should the ExA consider it to be preferable, the Applicant would be content for an appropriate cross-reference to that defined term to be included in Schedule 2, e.g. "<i>provisional certificate</i>" has the same meaning as in paragraph 2(2) of Part 3 of Schedule 9 of this Order". The Applicant will await the ExA's comment/direction in its schedule of changes to the draft DCO if considered appropriate.</p>	
DCO.2.21	Applicant	<p>Schedule 2 (Requirements)</p> <p>Explain how operational odour management and monitoring would be secured. The Applicant's response to AQ.08 in section 3.11 of its Response to LIRs [REP3-078] indicates that this would be through a draft AQAP forming an Appendix to the Code of Construction Practice (CoCP). Why is this not covered by a separate requirement in the DCO in the same way as construction dust (R27) for example?</p> <p>As set out in The Applicant's Response to Deadline 4 Submissions submitted at Deadline 6 [REP6-090] the odour assessment carried out followed the recommended approach from the Institute of Air Quality Management (IAQM) and concluded that there are no significant effects from odour as a result of the Project. An operational odour management and monitoring plan is therefore not required. As part of the standard operational practice of the airport any complaints regarding odour would be reviewed and addressed. The Applicant is already committing to an extended monitoring network onsite which will be highly beneficial for understanding the changes in emissions across the airport and which will also be valuable for any analysis of complaints. The data will give the airport additional information on the activities and emissions occurring</p>	<p>The Authorities' updated position on the odour management plan is set out in Part C to this document.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>onsite which can, where necessary, feed back into operational management procedures.</p> <p>The Applicant has prepared an Odour Reporting Process Technical Note (Doc Ref. 10.57) to clarify any remaining questions around odour. The Applicant has submitted this technical note at Deadline 7.</p>	
DCO.2.22	Applicant	<p>Schedule 7 (Land in which only new rights etc. may be acquired)</p> <p>The ExA notes the Applicant's response to ExQ1 CA.1.38 in respect of Schedule 7 of the dDCO [REP3-087].</p> <p>Nevertheless, the ExA maintains the position that it would be helpful if Schedule 7 could be further populated with additional detail. Reference is drawn to The Sizewell C and Drax Bioenergy with Carbon Capture and Storage Project made Orders. Additionally, both final draft versions of the Lower Thames Crossing and London Luton Airport Expansion Development Consent Orders contain additional detail in their equivalent, relevant Schedules.</p> <p>Additionally, it was noted by the ExA in CAH1 ([EV14-001] and [EV14-002]) that when National Highways (NH) referred to a specific plot within Schedule 7, the Applicant verbally provided additional detail to that currently contained within Schedule 7.</p>	
DCO.2.23	Applicant Local Authorities	<p>Schedule 11 (Procedures for approvals, consents and appeals)</p> <p>Schedule 11 provides for the payment of fees in respect of a requirement. The Applicant is asked to clarify why paragraph 3(2) of Schedule 11 provides for the repayment of any fee paid to the discharging authority within 35 days of (a) the application is rejected as invalidly made or (b) the authority not determining the application within the determination period when the discharging authority will have incurred costs.</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>The Applicant is additionally asked to explain why this provision should not apply to other consents addressed within the dDCO. Further detail beyond that contained within section 2.7.1.10 of the SoCG between the Applicant and CBC is required [REP5-037].</p> <p>The Local Authorities are asked to confirm what they would consider an acceptable quantum of fee.</p>	
		<p>The Applicant is open to discussing a PPA with the JLAs in lieu of the drafting currently included in Schedule 11 and is awaiting details on scope and value from the JLAs.</p> <p>Pending a resolution of those discussions, the Applicant maintains that the current drafting is appropriate. As set out in paragraph 9.80 of the Explanatory Memorandum [REP6-007], the Applicant's approach to fees for discharging authorities is well precedented in made DCOs.</p> <p>Equivalent drafting to paragraph 3(2) features in each of the precedents cited in paragraph 9.80 of the Explanatory Memorandum [REP6-007]. The discharging authority will be able to determine quickly whether an application has been "invalidly made", which does not require the full substantive assessment and consultation process that may be needed to determine whether to grant or refuse an application (and through which the fees would be expected to be incurred). In such circumstance, it is right that the fee is returned (or credited for a future application).</p> <p>It is similarly right that the fee is returned if the discharging authority does not determine the application within the decision period specified in the dDCO (Doc Ref 2.1). Such period is included to ensure that discharging requirements does not delay the progress of construction. If a discharging authority does not comply with this, it should not retain the fee. This accords with wider Government policy in the form of the 'Planning Guarantee' detailed in the December 2023 update to the Planning Practice</p>	<p>The Authorities welcome the Applicant's confirmation that it is open to discussing a PPA with the Authorities and, while the Authorities are keen for these to proceed in earnest as soon as possible, the Authorities consider these discussions could continue during the post-examination period, with both parties agreeing to provide the Secretary of State with an update on the status of negotiations around the time when the ExA is due to send its recommendation and report to the Secretary of State.</p> <p>Regarding the 35-day point, please see row 175 of Part A of this document.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>Guidance, whereby planning application fees must be refunded to applicants where no decision has been made within a specified time.</p> <p>In relation to the query on other consents within the DCO, by the addition of drafting in article 56 (deemed consent) in version 9.0 of the dDCO submitted at Deadline 7 (Doc Ref. 2.1 v9), the specified fee has been extended to also apply to applications for consent or approval pursuant to the articles of the dDCO, as well as the discharge of requirements.</p>	
DCO.2.24	Applicant	<p>Mitigation Route Map/ Register of Environmental Actions and Commitments</p> <p>At D4 [REP4-062] the Legal Partnership Authorities commented on the Applicant's response to ExQ1 DCO.1.6. The Authorities indicated that they would like to see the development of the Route Map from its current form into a Register of Environmental Actions and Commitments (REAC) document.</p> <p>The Applicant is asked to produce a REAC which is a common feature of other DCO applications or explain why this should not be done.</p>	
DCO.2.25	Applicant	<p>Approach to Securing Mitigation</p> <p>At D4 [REP4-062] the Legal Partnership Authorities commented on the Applicant's response to ExQ1 DCO.1.45. The Authorities' position is that the CoCP should be considered an overarching construction management plan that sets out the principles for the construction of the Project. The CoCP should be an outline document that sets out specific management plans the Applicant should prepare. The CEMP approach could then be adopted for each individual stage/works number, to provide the relevant suite of construction information to inform the mitigation required during construction for distinct geographical areas.</p>	<p>The Applicant is reviewing the request for a Register of Environmental Actions and Commitments (REAC) and will seek to submit a copy at Deadline 8.</p> <p>The Authorities will consider any REAC submitted at Deadline 8.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>Why would this approach not be a suitable way of addressing the local authorities' concerns?</p>	
		<p>The Applicant considers that the Code of Construction Practice (CoCP) (Doc Ref. 5.3), including its accompanying Annexes [APP-082 – APP-087], is a comprehensive document, which sets out the management systems and measures that would be in place during the construction of the Project, as secured under requirements 7, 12 to 13 and 27 to 30 of the dDCO (Doc Ref. 2.1). The CoCP describes where further management plans are to be prepared regarding specific construction or environmental measures and to be submitted for approval by the relevant discharging authority prior to the commencement of the relevant construction works.</p> <p>As explained in response to DCO.1.45 in the Applicant's response to the ExA's Written Questions (ExQ1) – Development Consent Order and Control Documents [REP3-089], a Construction Environmental Management Plan (CEMP) is limited to environmental management measures whereas the CoCP includes but is not limited to procedures and measures on non-environmental matters. For instance, it describes the role of the Community Liaison Officer and is accompanied by the Construction Communications and Engagement Plan in Annex 7 [REP2-015].</p> <p>As noted in ExQ2 DCO.2.26, the Applicant has responded to the JLAs' Deadline 3 Responses to ExQ1 DCO.1.46 [REP3-135] submitted at Deadline 4, namely in Table 2.5 of The Applicant's Response to Deadline 3 Submissions [REP4-031]. In that response, the Applicant has demonstrated that the matters raised in the JLAs' response to ExQ1 DCO.1.46 are covered by the existing CoCP. This again demonstrates that the document is sufficiently detailed in setting out the comprehensive suite of procedures and measures that will be in place during the Project's construction to manage and minimise disturbance from construction activities.</p>	<p>The Authorities provided a comprehensive response to ExQ2 DCO.2.26 (status of Code of Construction Practice) at Deadline 7 [REP7-110] and look forward to the Applicant's response to the same at Deadline 8.</p>

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>The Applicant notes that, at Deadline 6, the Legal Partnership Authorities' Response to ExQ1 – Development Consent Order and Control Documents [REP6-104] states in response that the JLAs “<i>remain concerned regarding the sufficiency of content and the level of detail provided in the CoCP</i>” but have not substantiated their remaining concerns. As such, the Applicant will await the Local Authorities response to ExQ2 DCO.2.26 to be able to understand any outstanding concerns or requests that may have on the CoCP.</p>	
DCO.2.27	Applicant	<p>Draft Section 106 Agreement At D1 [REP1-057] the Applicant stated that when it submitted the draft Section 106 Agreement at D2 [REP2-004], it would also submit a comparison document showing the relationship between existing and proposed obligations, with appropriate commentary. Can the Applicant signpost to where this document has been provided and/or provide an update at D7.</p>	
		<p>A comparison showing the relationship between the existing and proposed s106 agreements was submitted in response to Action Point 1 from ISH3 to the Applicant's Response to Actions – ISHs 2-5 [REP2-005] and in the associated Appendix A. The Applicant has prepared an updated version of Appendix A to the Applicant's Response to Actions – ISHs 2-5 (Doc Ref 10.9.7 v2) which reflects the draft DCO s106 Agreement submitted at Deadline 6 [REP6-063].</p>	The Authorities have no comments in respect of this question.
DCO.2.28	Applicant	<p>Draft Section 106 Agreement Section 6 of Schedule 3 of the draft Section 106 Agreement [REP2-004] lists the restrictions on the Povey Cross Access. It does not mention pedestrian or cycle access. The ExA understands why public access may</p>	

ExQ2	Question to:	Question and Applicant's Answer	Legal Partnership Authorities Response
		<p>not be desirable here, but staff who live locally being able to use this access may considerably reduce their journey times to the airport. Does this section need to be amended to allow controlled access for pedestrians and cyclists?</p> <p>At present there is no physical restriction on pedestrians and cyclists using the Povey Cross Access (the access is barrier controlled but is not securely gated and it is not physically impossible for cyclists (or pedestrians) to pass the barrier). However, there are no measures in place to encourage this active travel (i.e. there is currently no footway or cycleway) and the Applicant is not intending to make such provision as part of the Project. The Applicant is proposing to amend para 4.1 of Schedule 3 of the draft DCO s106 Agreement [REP6-063] to "GAL shall restrict the use <u>by motor vehicles</u> of the Povey Cross Access to...". The JLAs have confirmed that the proposed amendment to paragraph 4.1 to include the words "by motor vehicles" is acceptable.</p>	<p>The Authorities have no comments in respect of this question.</p>