Gatwick Airport Northern Runway Project

The Applicant's Written Summary of Oral Submissions ISH 9: Mitigation

Book 10

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1 Introduction

1.1.1 This document contains Gatwick Airport Limited's (the "**Applicant**") summary of its oral evidence and post hearing comments on its submissions made in respect of Agenda Item 3: Mitigation at Issue Specific Hearing 9 ("**ISH 9**") held on 30 – 31 July 2024. Where the comment is a post-hearing comment, this is indicated. This document uses the headings for each item in that agenda item.

1.1.2 The Applicant has separately submitted at Deadline 8 (Doc Ref. 10.63.2) its response to the Examining Authority's ("**ExA**") action points arising from ISH 9 regarding mitigation, which were published on 1 August 2024 [EV20-002].

1.1.3 Appendix A to this written summary is the Applicant's response to the draft requirements included as Annex B to the agenda published for ISH 9 by the ExA on 22 July 2024 [EV20-001].

1.1.4 The Applicant, which is promoting the Gatwick Airport Northern Runway Project (the "**Project**") was represented at ISH 9 by Scott Lyness KC, who introduced the following persons to the ExA:

- Ian Mack, Senior Associate, Herbert Smith Freehills LLP;
- Natasha Hyde, Senior Associate, Herbert Smith Freehills LLP;
- Martyn Jarvis, Senior Associate, Herbert Smith Freehills LLP;
- Steve Mitchell, Director, Mitchell Environmental; and
- James Bellinger, Associate Director, Arup

2 Agenda Items 1 and 2: Welcome, introductions and arrangements for the Hearing; Purpose of the Hearing

2.1.1 The Applicant did not make any submissions under these agenda items.

3 Agenda Item 3: Mitigation

3.1. The Applicant and Joint Local Authorities will be asked about the draft Requirements in Schedule 2 of the dDCO [REP7-005] and the potential changes identified at Annex B.

3.1.1 The ExA asked the Applicant to provide its full response in writing to the draft requirements at Deadline 8.

3.1.2 [**Post-Hearing Note**: the Applicant has provided its full response to the draft requirements as **Appendix A** to this written summary]

Traffic and Transport

3.1.3 The ExA asked for the Applicant's comments on the potential amendments to requirement 20 (surface access) set out in Annex B of the agenda.

3.1.4 [**Post-Hearing Note:** The Applicant provided an overview of its position on the amendments to requirement 20 in the hearing. Its full submission on this is set out in full in **Appendix A** to this written summary and is not repeated here.]

3.1.5 The ExA noted that the percentages in the amended requirement are from the Applicant's modelling in the table provided regarding car parking. The new drafting is not about cessation of use, but about preventing first use of parts of the development that rely on that modelling by reference to those percentages. The ExA noted that missing a mode share percentage would not necessarily mean that there would be more traffic, but it could.

3.1.6 The Applicant confirmed that it has looked at the question of whether mode shares may differ and concluded that no change to the mitigation offered is required. As to the comment that the amended requirement only prevents new development rather than relating to cessation of use, the Applicant still maintains an objection because it would not make commercial sense for the airport to incur billions of pounds of expenditure constructing a nationally significant infrastructure project and then finding it is unable to operate it; no party would invest on that basis. The Applicant could not take the commercial risk of undertaking the development and then finding out it was unable to commence because of a potentially minor difficulty with the mode share commitment which, as drafted, would mean any minor change to mode share would prevent operation of the Project. Such an outcome would be completely disproportionate to the harm alleged (but not shown) to arise, particularly when other proportionate and more appropriate remedies are available. The Applicant also does not see a rationale for imposing it for a number of reasons:

- Within the **Surface Access Commitments** ("**SACs**") (Doc Ref. 5.3) there is the annual monitoring report to anticipate problems meeting mode share, which is required to be submitted before commencement of dual runway operations ("**CDRO**"). The appropriate means of dealing with problems meeting mode share targets (if any) is to prepare an action plan and come up with mitigation that addresses this.

- Similarly, as the Applicant is now proposing, it would anticipate those mode shares and there is an obligation to report and take action in advance of CDRO. The Applicant does not oppose having to respond if there is an issue meeting the mode shares. The Applicant is making specific provision

for that to be monitored prior to CDRO and at a step before the 3-year period when the mode share commitments as they stand must be met.

3.1.7 The Applicant explained that this is the appropriate means of dealing with any issue – if there is a problem, the Applicant will develop a solution to address it. It is not necessary to prevent the operation of the Project.

3.1.8 The ExA stated that, if there is a problem, that would mean that the reality does not follow the modelling provided to the ExA in the Transport Assessment, which the percentages reflect. There could be more traffic and there would then start to be effects that hadn't been assessed. The ExA asked if that is a situation it should accept.

3.1.9 The Applicant explained that, as required, it has assessed the likely significant effects of its scheme, conducted an EIA sensitivity analysis and concluded that the mitigation offered is appropriate. As with EIA assessment more generally, effects are assessed and mitigation is designed accordingly. Uncertainty can be addressed by sensitivity analysis, following which it can be considered whether the proposed mitigation is sufficient to address the risk of that sensitivity arising. Monitoring can be secured, to ensure that if mitigation is not appropriate for any reason then solutions are required to address this. The Applicant has followed that process here and there is no contrary evidence to dispute its conclusions. In particular, there is no evidence to show that significant harm would arise in the circumstances where mode share targets are not met; the development of solutions to address those harms where they arise would be an effective and proportionate remedy.

3.1.10 The SACs provide for the Applicant to monitor whether the mode share commitments have been met or are on the right trajectory no later than six months before CDRO and then annually thereafter. The Applicant will be able to track whether it is on course to achieve those commitments and implement any required mitigation accordingly. That is the appropriate mechanism to deal with the concern because the Applicant is providing a means to deal with any issues meeting the mode shares.

3.1.11 [**Post-Hearing Note**: the Applicant has set out its proposed new interim mode share commitments to be achieved by the first anniversary of CDRO in the revised **SACs** (Doc Ref. 5.3) and explained further in response to **Action Point 1** in the Applicant's **Response to Actions ISH 9: Mitigation** (Doc Ref. 10.63.2) and in **Appendix C - Response on JLAs' EMG Framework Paper** (Doc Ref. 10.65).

3.1.12 The Applicant has also taken the opportunity to submit further amendments to the SACs to reflect discussions with Network Rail and to incorporate appropriate amendments requested by the JLAs at Deadline 7.

3.1.13 In the revised SACs submitted at Deadline 7, the Applicant introduced a £10million fund to support interventions that address impacts on the railway network that is directly related to the Project, such interventions to be agreed between GAL and Network Rail and/or rail operators (as applicable) (the "Rail Enhancement Fund"). The Applicant also committing to carrying out specific measures (with agreement from Network Rail and/or the station operator where applicable) which were identified in Network Rail's PADSS, including additional wayfinding measures and a gateline capacity review at Gatwick Railway Station (and other measures listed at Commitment 14A(1)). The Applicant's expenditure in connection with the specific measures in noted in paragraph (1) of Commitment 14A is separate and in addition to the £10million Rail Enhancement Fund.

3.1.14 To supplement these specific measures and the Rail Enhancement Fund, the Applicant has added a new Commitment into the Surface Access Commitments (Commitment 14B) which requires GAL to prepare a rail monitoring and enhancement plan and submit such plan for approval to Network Rail (in consultation with the relevant rail operators). Commitment 14B sets out the details of what this plan must include and requires the airport to be operated in accordance with the approved plan unless otherwise agreed in writing with Network Rail (in consultation with the relevant rail operators).

3.1.15 The Applicant has been in discussions with Network Rail to refine the drafting of these commitments and the version submitted in the SACs (Doc ref. 5.3) at Deadline 8 reflects those discussions. Whilst the principle of the Commitments is agreed between the Applicant and Network Rail, there are ongoing discussions on some discrete drafting points in Commitment 14A(1) (indicated in square brackets in the SACs) which the Applicant anticipates will be resolved imminently enabling the Applicant and Network Rail to submit a joint statement at Deadline 9 confirming it has reached agreement on these matters.]

3.1.16 The Applicant noted a concern that there could be more traffic than that assessed is a concern that could be applied to every EIA development, but no other development has been required to be consented on the basis that it can be built but not operated if a mode share target is failed. There is no national or local policy support for such an approach.

3.1.17 The ExA noted that it cannot comment on proposed changes to the SACs and observed that the SACs only currently provide for the mode share commitments

to be met three years after CDRO. The ExA queried whether what is now proposed is substantially different to that.

3.1.18 The Applicant confirmed that the interim mode share commitments were not 'substantially different' and explained that in the SACs as they stand, there is already provision for the Applicant to consider progress towards the mode share commitments because it is already required to conduct monitoring and prepare an annual monitoring report ("**AMR**") no later than 6 months prior to CDRO. If that suggests the mode share commitments won't be met, in the reasonable opinion of the Applicant or the Transport Forum Steering Group ("**TFSG**"), then the Applicant has to prepare an action plan (paragraph 6.2.6). What the Applicant is now proposing, to address any residual concerns, is to formalise in the SACs the interim mode share commitments to be achieved by the first anniversary of CDRO to specify the trajectory towards the passenger and staff mode share commitments. The Applicant explained that this is not a fundamental change – the interim mode share commitments are proposed to provide express assurance by way of formalising within the SAC document a trajectory that the Applicant already knows it has to work towards to meet the existing commitments and which was already relevant to the preparation of an AMR 6 months before CDRO.

3.1.19 [**Post-Hearing Note**: the Applicant has explained the effect of the interim mode share commitments further in **Appendix C - Response on JLAs' EMG Framework Paper** (Doc Ref. 10.65).]

3.1.20 In response to comments from Interested Parties, the Applicant noted that it has set out its opposition to the JLAs' proposed EMG framework at previous deadlines in [REP5-074] and [REP6-093] and is supplementing that at Deadline 8. The Applicant explained that the way in which the operation of the SACs has been characterised by Interested Parties is wrong. The first AMR will be produced no later than 6 months before CDRO (para 6.2.1) and then para 6.2.6 anticipates production of subsequent AMRs. If the AMR shows that the mode share commitments have not been met or in the Applicant's or in the TFSG's reasonable opinion they may not be met, the Applicant will in consultation with the TFSG prepare an action plan to identify additional interventions. From the moment of producing the first AMR, anticipatory action to be taken is envisaged. The Interested Parties' reference to it being 5 years after CDRO before anything is done is wrong. The process kicks in before CDRO and builds in anticipation of problems occurring rather than waiting for them to occur.

3.1.21 The Applicant noted that the JLAs present no policy basis for supporting the prevention of development if mode share targets are not met. They have not

presented evidence of any scheme they are involved in where they have imposed such an obligation. There is no policy or legal basis justifying a different approach being taken to this Project than to any other project and the Applicant therefore does not accept the points raised. Separately, there is no evidence of harm that would be realised in the event the mode share targets are not met. The Applicant has provided mechanisms to deal with that.

3.1.22 The Applicant considers the JLAs' suggestion that the Applicant is relying upon the enforcement mechanisms in the Planning Act 2008 to enforce the SACs to be wrong. The Applicant has merely noted that those mechanisms are available to the JLAs. The Applicant has inserted enforcement mechanisms in the SACs themselves, including the TFSG directing that action be taken in acknowledging anticipatory issues with the SACs. It should also be emphasised that Gatwick has performed well in achieving high mode share for non-car access, which gives confidence that it will meet the commitments it has proposed.

3.1.23 The Applicant has provided in the SACs for the TFSG to participate in any review of the AMR and any further action that needs to be taken in the context where the airport is already operating well, and that provides further comfort for the proposition that this requirement isn't necessary.

3.1.24 The ExA asked for the Applicant's comments on its proposed new requirement removing the Applicant's permitted development rights.

3.1.25 The Applicant confirmed that it understands the objective underlying the ExA's proposal but considers that there is a different and preferable way of addressing it. The Applicant reiterated that, as indicated previously, it does not think that a control on car parking is necessary because the mechanisms to control car parking as described, including through the SACs, ensure that the provision of parking would be commensurate with what the Applicant has assessed and what needs to be achieved to ensure the mode share commitments are met. However, in light of the recent request for further information in the ExA's **Rule 17 Letter issued on 15th July 2024** [PD-025], the Applicant has given further thought to controls which could be included in the draft DCO. Rather than include those as a requirement in relation to permitted development rights, the Applicant is minded to include a numerical car parking cap. This is proposed to be a new requirement which imposes a numerical cap on the provision of car parking spaces, which will serve as a maximum to cover replacement spaces and baseline growth. The Applicant considers the cap on car parking would avoid the need to remove permitted development rights.

3.1.26 The ExA asked whether a written submission will be submitted on this.

3.1.27 [**Post-Hearing Note**: the Applicant has set out its proposed new DCO requirement which sets an overall cap on the number of car parking spaces provided by the undertaker within the Order limits in response to **Action Point 2** in the Applicant's **Response to Actions ISH 9: Mitigation** (Doc Ref. 10.63.2) and in **Appendix B of The Applicant's Response to Rule 17 Letter – Parking** (Doc Ref. 10.64). The cap is new requirement 37 (car parking spaces) in the **draft DCO** (Doc Ref. 2.1 v10) submitted at Deadline 8.]

3.1.28 In response to comments from Interested Parties, the Applicant confirmed that it has already shared the drafting of its proposed cap with the JLAs and will consider and respond to any comments in due course. The Applicant further noted that it has offered this to recognise the desire to constrain parking on the airport but that off-site parking is not within the Applicant's control and thus it cannot commit to a particular limit on this. The Applicant reiterated that it has offered a contribution towards off-site parking controls in the **draft Section 106 Agreement** [REP6-063], which is the appropriate means of dealing with that issue and the Applicant could not be expected to go further.

3.1.29 The ExA asked the Applicant whether the additional sub-paragraphs in requirement 10 of the draft DCO (Doc Ref. 2.1) suggested by Thames Water Utilities Limited ("**TWUL**") (set out in TWUL's response to ExQ2 WE2.2 [REP7-119]) in relation to the approval of a development phasing plan by TWUL prior to discharge of any additional wastewater flows as a result of the Project are acceptable to the Applicant.

3.1.30 The Applicant explained that in its **Response to ExQ2** WE2.2 [REP7-093] it set out the status of discussions with TWUL to date. The response also confirmed why the Applicant does not consider that TWUL's proposed construction of the phasing plan requirement is necessary or appropriate. The Applicant also confirmed that it remains the Applicant's position that it considers it is entitled to rely on TWUL delivering any identified upgrades to its own network and wastewater facilities infrastructure in accordance with its statutory obligations without the growth associated with the Project being conditioned to that the delivery of any required works by TWUL.

3.1.31 The Applicant also confirmed that discussions are continuing with TWUL and that drafting of a new requirement would be submitted by the Applicant at Deadline 8, through which the Applicant will commit to providing to TWUL a phasing plan prior to commencing the Project. The phasing plan will include forecast passenger growth numbers up to commencement of dual runway operations and for the period five years after the commencement of dual runway operations, giving confidence to enable TWUL to plan its network capacity requirements. The

Applicant confirmed that this is considered an appropriate period to give a long-term view of demand given that this is the period where most of the passenger growth associated with the Project will take place. Those forecasts must not exceed the forecasts set out in the DCO Application. This should give TWUL comfort as to anticipated passenger throughput trajectory, and importantly for the Airport, this does not impose a Grampian condition on the face of the DCO obliging the Applicant to agree a phasing plan with TWUL prior to commencing either the Project or CDRO.

3.1.32 [**Post-Hearing note:** The new requirement is requirement 36 (Thames Water phasing plan) in the **draft DCO** (Doc Ref. 2.1 v10) submitted at Deadline 8. Please also refer to the response to **Action Point 3** in the Applicant's **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2) for further details relating to the Applicant's discussions with TWUL.]

3.1.33 The ExA asked whether TWUL has expressed concern about growth in the future baseline.

3.1.34 The Applicant confirmed that it would respond in writing.

3.1.35 [**Post-Hearing note**: Please refer to the response to **Action Point 4** in the Applicant's **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.1.36 In response to a concern raised by CAGNE as to the lawfulness of the tailpiece in requirement 31(3) (construction sequencing), the Applicant explained that this provision is perfectly lawful and proper, not least because there is provision in paragraph 1(4) of Schedule 2 to the draft DCO that provides that details or actions can only be "otherwise agreed" pursuant to a requirement by a discharging authority where that discharging authority is satisfied that the departure from the previously approved document or obligation does not give rise to any materially new or materially different environmental effects to those assessed in the Environmental Statement. Hence, the draft DCO already addresses CAGNE's concern. More broadly, inclusion of that wording in the requirement is to recognise that discussions are ongoing between the Applicant and TWUL. It may be that those discussions arrive at an agreement that allows for alternative solutions to be identified but this will be subject to the aforementioned constraint as regards environmental effects. The Applicant does not consider that there is any fundamental issue with this tailpiece wording and considers that there are very good practical reasons for including it.

3.1.37 In response to a comment regarding the five-year time period in the proposed new Thames Water phasing plan requirement, the Applicant noted that this period has been provided to give certainty in accordance with the cycle of

TWUL's regulatory planning framework, with which the Applicant has sought to align.

3.1.38 The ExA requested that the Applicant submit further information in respect of:

- post Covid analysis showing whether June and not August is still the highest month for combined traffic flow, given that the main difference between pre and post Covid traffic relates to business and commuter traffic; and
- whether the Chancellor's announcement that the A27 Arundel Bypass will no longer be funded will have an effect on the analysis contained in the Transport Assessment.

3.1.39 [**Post-Hearing Note**: the Applicant has responded to these queries in response to **Action Points 5 and 6** respectively in the Applicant's **Response to Actions ISH 9: Mitigation** (Doc Ref. 10.63.2).]

Noise

3.1.40 The ExA referred to its proposed replacement requirement for requirements 15 (air noise envelope) and 16 (air noise envelope reviews). It noted that requirements must be in line with policy and that the Applicant, the JLAs and other Interested Parties have put forward proposals, and that the ExA has added to that with its proposal. The ExA acknowledged that this is not easy given that aviation noise is not noise from a fixed facility and that the ANPS applies. The ExA invited the Applicant's comments on its proposal.

3.1.41 [**Post-Hearing Note:** The Applicant set out a summary of its position on the ExA's proposed noise limits requirement in the hearing. Its full submission on this is set out in full in **Annex 1** to **Appendix A** to this written summary and is not repeated here.]

3.1.42 In response to comments from Interested Parties supportive of the ExA's drafting, the Applicant noted that these parties support the proposal without any evidential basis at all to understand its effect or why it is required to meet the requirements of policy or avoid significant adverse effects. The Applicant observed that these parties have not produced any evidence which substantiates why the noise levels specified in the ExA's requirements, the reductions provided for by reference to the 2019 baseline or the timings of those reductions are justified as necessary rather than the Applicant's proposal. The Applicant observed that nothing has been advanced to justify a requirement in this form or to show that it would adhere to, and be compliant with, policy.

3.1.43 In response to comments challenging the independence of the CAA and its role as independent air noise reviewer under the Applicant's proposed air noise envelope, the Applicant rejected this. It is wrong to say that the CAA is incapable of fulfilling this role – it is the expert aviation regulator for the UK.

3.1.44 [**Post-Hearing Note**: the Applicant notes the endorsement given by the ANPS at paragraph 5.66 to the CAA as an appropriate body to secure and enforce noise management measures.]

3.1.45 In response to comments on the use of the LAeq metric, the Applicant confirmed that it does not take issue with that metric as it is the metric it has used for the noise envelope. The Applicant also confirmed that it agreed with the ExA's adoption of the "average summer day" and "average summer night" metrics.

3.1.46 The Applicant asked the ExA if it could offer some further information to explain its proposed requirement, including if the proposed reductions in Leq 16hr and Leq 8 hour night noise levels below 2019 levels were intended to be applied at particular locations or to relate to noise contour areas.

3.1.47 The ExA did not confirm and instead asked whether the Applicant agrees that there is a general reduction in aircraft noise / fleet noise from 2019 to the first year of operation, 2029.

3.1.48 The Applicant confirmed that it took this point away from ISH 8 and gave a detailed answer in response to **Action Point 14** in the Applicant's **Response to Actions ISH8 – Noise** [REP6-087]. The Applicant summarised that the noise emitted by new aircraft entering the fleet is expected to reduce over time. As regards the noise on the ground around the airport, that will depend on where you are around the airport. For example, communities directly at the end of the northern runway will receive an increase in noise after opening, notwithstanding the progressive quietening of the fleet.

3.1.49 The ExA asked whether flightpaths will remain the same and whether dual runway operations will mean that there are a greater number of aircraft using those flightpaths.

3.1.50 The Applicant confirmed that both of those were correct.

3.1.51 The ExA asked whether, given that those two factors are kept the same, it is therefore the noise output from the aircraft that governs the effect of noise on the ground.

3.1.52 The Applicant noted that its proposals are based on detailed consideration of this point including studying future rates of fleet transition to quieter aircraft over the

past 5 years or so, based on the Applicant's knowledge of airlines that operate at the airport and other information, initially based on the central case fleet transition forecast and then, following the pandemic, the revised slower fleet transition forecast, and more recently the updated central case fleet forecast that was produced to incorporate new information.

3.1.53 The ExA noted that policy suggests there should be a balance as regards sharing the benefits of new technology between growth and communities, such that communities benefit from new technology as well as the airport. The ExA noted that the Applicant's ground noise materials reference a 7 – 9 dB reduction in noise from new aircraft.

3.1.54 The Applicant confirmed that next generation aircraft will get quieter and that this is fundamental to the noise modelling that has been undertaken. It took away to respond on the 7 – 9 dB reduction.

3.1.55 [**Post-Hearing Note**: the Applicant's response to **Action Point 9** in its **Response to Actions ISH 9: Mitigation** (Doc Ref. 10.63.2) explains that the 7-9dB difference quoted for ground noise relates to the difference between large and small aircraft, not old and new ones, and engine noise and not total noise.]

3.1.56 The ExA noted that it understood that scenario 3 in the ICAO document *'Global trends in Aircraft Noise'* mentions that it factors in COVID-related delay and assumes nothing happens between 2019 and 2024 and asked the Applicant if that is correct.

3.1.57 The Applicant explained that scenario 3 posits that next-gen aircraft will get slightly quieter year-on-year and that the ICAO document *'Global trends in Aircraft Noise'* provides the ICAO view of the global fleet. However, the Applicant emphasised that it is important to look at how this fleet transition might affect the overall Leq noise levels that arise from the entire operating fleet. The Applicant referred to page 2 of the ICAO report and figure 1.10, which shows forecast global contour area changes over the next 30 years, given the assumption above regarding new aircraft and the growth in passengers etc. The graph shows that the contour areas go up and the Applicant explained that this means that global noise levels will go up, not down, counter to the deduction the ExA has drawn in terms of setting a noise cap which must go down repeatedly.

3.1.58 The ExA referred to the reference in the 'Aviation Key Facts' in the Aviation Policy Framework ("**APF**") to a reduction in aircraft noise of 7 – 9 dB and explained that it is struggling to understand how to reconcile the APF and the Applicant's submissions on fleet noise reduction with the Applicant's position on noise reductions in the ExA's proposed requirement.

3.1.59 [**Post-Hearing Note**: the Applicant has provided a full explanation of this in its response to **Action Point 9** in its **Response to Actions ISH 9: Mitigation** (Doc Ref. 10.63.2).]

3.1.60 The Applicant explained that the average aircraft life is 20-25 years. Hence, only around 5% of the fleet is replaced each year. That 5% will be quieter, which reduces total fleet noise level by a proportionate amount. But in each year around 95% of the fleet remains the same as the year before, which limits the downwards trajectory of noise reduction. The fleet average aircraft noise level should trend downwards but it will not trend downwards by 0.2 dB a year as a whole, because that figure only relates to the 5% of the fleet being replaced each year.

3.1.61 The Applicant referred to Table 14.7.1 in **ES Chapter 14: Noise and Vibration** [APP-039] which shows that the night time baseline future has no growth in air transport movements, in part because of the Night Flight Restrictions. Looking at the baseline night contour area going forwards through the assessment years for this period, one can see that the fleet transition using the Applicant's updated central case fleet forecast gives a noise reduction in terms of contour area. This shows a slow gradual reduction, but not one that would meet the ExA's proposal to require a 0.5dB reduction every five years. Thus, even with no growth, a 0.5dB reduction in noise level every five years is unachievable. This demonstrates how imposing this periodic step-down on day flights, where the airport is proposed to grow and derive some of the benefit of new technology, is far too severe. To meet the ExA's noise envelope proposal, the Applicant would have to reduce flights from the 2019 level and not have any growth. For this reason, the noise limit reductions proposed by the ExA are not workable for the airport, and a DCO granted subject to such restrictions could never be implemented because it would require the airport to shrink its operations.

3.1.62 In response to comments on the appropriateness of using the summer period for the noise envelope / limits, the Applicant explained that it is important to set controls which deal with the noisiest time of the year, which for Gatwick Airport is the summer. It is DfT policy (e.g. in setting LOAELs) that assessments should be of the summer 92 day average noise levels for those reasons.

3.1.63 The Applicant asked the ExA if it could expand on how it intended its proposed noise limits to function.

3.1.64 The ExA explained that it was trying to be clear whether one could express the limit in dB terms or whether the modelling is such that it would need to be expressed as a contour such as in the draft DCO. The ExA noted that if you could say the fleet was X dB quieter at a point in time you could easily calculate

how that is to be shared but that, if based on a contour, that is harder to do – though a 'rule of thumb' could be used.

3.1.65 The Applicant acknowledged that the ExA's question was essentially whether it is feasible to set noise limits in the noise envelope that are measured Leq noise levels rather than contour levels, and whether these could decrease continually every five years. The Applicant noted that it has addressed this in its response to NV.2.5 in the Applicant's **Response to ExQ2 - Noise and Vibration** [REP7-089].

3.1.66 [**Post-Hearing Note:** the Applicant has provided further detail in **Annex 1** of **Appendix A** to this written summary.]

3.1.67 If there is a universal requirement to be quieter than 2019 at every geographical location (rather than overall), this fundamentally is not achievable because noise off the end of the northern runway will inevitably increase with growth as it is brought into routine use before gradually decreasing. The Applicant therefore queried where noise monitors would be located given that, if placed in fixed locations, aircraft could avoid them and communities would then find it inequitable that some locations have a noise limit (by virtue of having a monitor/location) and others do not. Placing noise monitors or assessment locations which are subject to binding limits also constrains how aircraft are routed, which poses a problem for NATS as they cannot safely and expediently manage the air traffic presented to them in a given day or season in the necessary manner. For all these reasons the Applicant concluded that the ExA's proposal, if referring to noise limits at fixed locations, is not feasible and noted that this is why no other airport in the country has sought to control noise limits in this manner.

3.1.68 The ExA noted that at ISH 8 a contour area of 135.5 km^2 was the daytime number and that this is very similar to the 2019 baseline.

3.1.69 The Applicant responded that the updated central case fleet forecast discussed at ISH 8 provides for the daytime Leq 51dB contour an area of 135.5 km^2, which is slightly less than the baseline in 2019 (136.0 km^2). The Applicant has also committed to this level not being exceeded in connection with any noise envelope review (not including an extraordinary review). The Applicant noted that this meant it is able to say that the daytime noise contours under the Applicant's proposed noise envelope will in normal circumstances always be smaller than they were in 2019. Any increase beyond that would require Secretary of State approval. The Applicant explained that the ExA's proposal that in 2034 the noise level must be 1 dB quieter than in 2019 translates roughly to a 20% reduction in contour area, so under this proposal the contour area would need to be around 105 km^2, which the Applicant has no chance of meeting in that timeframe. The

noise reduction of 0.5 dB every five years is therefore unachievable and arbitrary. The Applicant noted that there has to be some certainty that noise limits could be delivered, otherwise there is no planning justification for them to be imposed on the Applicant.

3.1.70 In response to the JLAs' concerns regarding the timing for submission of an annual review and monitoring report and the need for this to be analysed to ensure any capacity declarations are effective and void releases of capacity where there is an actual breach of a contour, the Applicant noted that there are practicalities in terms of analysing the previous year's data which means it will inevitably take a period of time to produce the reports and for them to be verified. The Applicant explained that this is why it has proposed the forward-looking provisions in the air noise envelope including the five-year forecast and committed to begin the reporting process two years before CDRO, ensuring that proposed growth and its acceptability from a noise perspective is visible sufficiently in advance of that capacity being released and its consequent noise emissions arising. The Applicant noted that a further concern with the ExA's proposal is that it jettisons the five-year forecasting process that the Applicant has developed, significantly weakening the effectiveness of the controls proposed.

3.1.71 [**Post-Hearing Note**: **Annex 1** of **Appendix A** to this written summary gives a full response to the ExA's proposal with regards noise envelope processes and action plans.]

3.1.72 In relation to comments from interested parties on quota count (QC) budgets, the Applicant explained that QC is a measure of the noise emission level coming out of the aircraft, not the noise level arriving at the ground. QC levels for each aircraft are in a range that is about 3 dB wide. The Applicant noted that CAP 1869 found that various aircraft were not in the right QC band when measured on the ground. [**Post-Hearing Note**: see **ES Appendix 14.9.5 Air Noise Envelope Background** [APP-175]].

3.1.73 Further, the Applicant explained that QC budgets do not incentivise operational procedures to reduce noise on the ground, which is one of the strands of the ICAO balanced approach. If an airport develops with its air traffic control provider a quieter way of flying the aircraft so they make less noise on the ground, that gets no credit in the QC system, which provides no incentive for such innovation. The obvious opportunity area is arrivals, where the Applicant knows there are better and better ways to fly arrivals more quietly. Those benefits, which the Applicant is studying as airport operator (including a six-month night noise trial earlier this year), would not show up at all against a QC budget. Thus, that

system is not considered a good incentive at all, and nor does it accurately predict noise levels so as to be appropriate to be used as the basis to control the release of capacity in the absence of any compliance issues which may otherwise justify this arising. In this respect, the Applicant explained that QC is a rather blunt forecast of noise levels. The Applicant noted that Luton Airport deposited a paper [**Post-Hearing Note**: Deadline 2 Submission – 8.36 Noise Envelope – Improvements and worked example, September 2023 – [REP2-032] in the London Luton Airport examination] that reported the correlation between QC and contour areas in the last 5 years. The correlation between contour area and QC was 0.96 in the night time (i.e. good), but during the day time the correlation was 0.86 (i.e. not so good). Between 2017 and 2018, the daytime QC went up but contour area went down. Therefore, the Applicant concluded that QC is not the correct approach on which to base the forecast of noise emissions from the aircraft in isolation, nor to incentivise good noise envelope performance at the airport.

3.1.74 In response to supportive comments from the JLAs regarding the Applicant's proposal to commence noise monitoring two years ahead of CDRO, the Applicant welcomed this confirmation of support and referred to para. 7.24 of the JLAs' submission at Deadline 7 [REP7-102] which similarly refers to the Applicant's proposal to commence noise monitoring 2 years ahead of CDRO and states that, assuming that process is rigorous and effective, this would address many of the JLAs' concerns regarding the effectiveness of the noise control regime. The Applicant expressed its gratitude for the JLAs' confirmation of this position at the hearing but flagged that it underlies the Applicant's surprise that the JLAs now suggest that the approach included in the ExA's recommendation is necessary in the circumstances where the amendments the Applicant has made to its noise envelope process were said by the JLAs in their written submissions to have addressed many of the JLAs' concerns regarding the effectiveness of the noise control regime.

3.1.1 In response to a comment from the JLAs regarding the Applicant having itself referred to use of QC quotas as a noise management measure in [REP6-087] at paragraph 4.1.3, the Applicant responded that the reference to QC in that document clearly notes that it is adopted as one of a range of potential measures that would be open to the Applicant in order to ensure that it complies with noise limits.

3.1.2 [**Post-Hearing Note**: To be clear, the Applicant has referred to QC budgets as one internal tool to which may be used to assist with forecasting and managing noise, for example across airlines, within a total QC budget for a given season where that budget relates to the noise contour area for one season that has

constant operational procedures, fleet mix and approximations within it. This is quite different from suggesting a Noise Envelope limit set in terms of a QC to last over many years which the Applicant considers is not appropriate for the reasons given above.]

3.1.3 In response to an allegation from the JLAs that they have not received the raw data underlying the noise modelling analysis despite requests, the Applicant recalled that the CAA attended the relevant topic working group to explain the noise model, gave some examples of the noise data being requested and explained how the Environmental Research and Consultancy Department ("**ERCD**") validate that data and the noise model by carrying out measurements each year. The Applicant explained its understanding that the full data set sitting behind that is confidential to the CAA and therefore cannot be shared.

3.1.4 The ExA referred to the earlier discussion regarding aircraft noise and asked the Applicant whether it was confident in the trends factored into its modelling.

3.1.5 The Applicant explained that the reason the Applicant chose the CAA ERCD to do the noise modelling is because they are a world leader in this area and carry out noise modelling for most major airports in the country. Their noise model is recognised globally as a very accurate noise model and they monitor thousands of data points every year at Gatwick to recalibrate the model. The database is confidential; however, the Applicant has shown examples of it and explained the process to the JLAs. Given that the ERCD is commissioned by the DfT amongst other industry bodies to do research and carry out noise modelling, the Applicant hoped that the accuracy of the noise model would not be in question. The Applicant is confident that this is the best noise model for the airport and that could have been used for the Application.

3.1.6 [**Post-Hearing Note:** The Applicant notes that row 2.16.5.2 of the **Statement of Common Ground with CBC** [REP5-037] records CBC's view that *"The use of ANCON is not disputed"*.]

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3.1.7 The ExA noted that the 'Aviation Key Facts' section of the APF says that *"The UK was instrumental in the agreeing a decision by the Committee on Aviation Environmental Protection (CAEP) within ICAO which requires new types of large civil aircraft, from 2017, to be at least 7dB quieter on average in total, across the three test points, than the current standard. Standards for smaller aircraft will be similarly reduced in 2020"* and that the Applicant's REP6-066, Appendix E, 2.2.2

notes that the majority of smaller next gen aircraft will be around 7-9dB quieter. The ExA requested that no more verbal responses should be made and that the Applicant provide a note explaining how this information affects its air noise prediction values from CDRO.

3.1.8 [**Post-Hearing Note**: the Applicant has provide a full response in response to **Action Point 9** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2) as well as in Annex 1 of **Appendix A** to this written summary.]

3.1.9 The ExA asked for the Applicant's view on its proposed requirement 18 (noise insulation scheme – "**NIS**").

3.1.10 [**Post-Hearing Note:** The Applicant provided an overview of its position on the ExA's proposed requirement 18 in the hearing. Its full submission on this is set out in full in **Annex 1** of **Appendix A** to this written summary and is not repeated here. This covers several aspects of the ExA's proposal including areas of disagreement on the interpretation of the current DCO requirements relating to the noise insulation scheme. It also provides a firm programme for implementing the NIS before the noise impacts predicted arise.]

3.1.11 The ExA asked whether the performance of the glazing offered would be affected by the characteristics of the noise external to the dwelling, particularly the frequency content, whether the glazing standard adopted for the NIS would always provide a 35 dB reduction in noise.

3.1.12 The Applicant explained that it has looked at the frequency spectrum and the RW35 dB standard for the glazing in the NIS accounts for the frequency content by using the road traffic correction. The 35 dB figure is not precise in all circumstances. The Applicant accepted that more low frequency noise would pass through the glazing than high frequency noise. However, the RW35 standard as specified is a good standard.

3.1.13 In response to comments from the JLAs on local authority involvement, the Applicant noted that the informative to the ExA's suggested requirement says that insulation measures *"… may involve features that would normally require consent, including listed building consent ".* The Applicant clarified that there is nothing in the Applicant's proposals that seeks to disapply the TCPA or listed building consent regimes as appears to be suggested by the informative. The Applicant explained that it does not anticipate that materials to be provided will require planning consent and, where listed building consent will be required (c. 5% of the properties), the Applicant would make the application on behalf of the homeowner. The Applicant emphasised that it does not want the notion of local

authority involvement to be premised on the basis that the Applicant is seeking to avoid JLA involvement through the planning process.

3.1.14 In relation to comments from the JLAs on using the LAeq 8 hr 48 dB noise level, the Applicant explained that there is no guidance or policy which requires its use. The Applicant also explained that if you look at the 'outer' outer zone (54 dB) this is quite close to the LAeq 8 hr 48 dB boundary apart from in a few places. The Applicant considers a four-zone scheme to already be sufficiently stratified and would not want to add further zones. The Applicant noted that Luton Airport has not proposed a noise zone set to the LAeq 8 hr 48 dB level.

3.1.15 In relation to the JLAs suggesting that they will submit a proposed requirement on ground noise at Deadline 8, the Applicant expressed that it considered that section 4 and Schedule 2 to the **draft Section 106 Agreement** [REP6-063] regarding engine testing were agreed with the JLAs.

3.1.16 In relation to a suggestion from the JLAs that the Applicant's assessment of ground noise was undertaken using the LAmax metric such that engine running was not included in the ground noise assessment, the Applicant explained that engine running is not frequent. It occurs around once every 3 days and perhaps once or twice in any day. Engine runs happen for a matter of minutes and high thrust periods are for less than that. The Applicant explained that, when the calculations are run, the contribution to the Leq 16 hr level is minimal. The Applicant expressed that it does not consider that events that occur once or twice a day for such a short period should be assessed as part of Leq, and that this accords with guidance. That is why the Applicant has assessed it using Lmax and has not included it in the Leq calculations. The Applicant accepts that the NIS definition for ground noise does not include ground engine running noise. However, for the reasons given above, the contribution to the average summer day Leq 16 hr is insignificant and it does not need to be included.

3.1.17 The Applicant further noted that section 4 and Schedule 2 to the **draft Section 106 Agreement** [REP6-063] provide an obligation relating to aircraft engine testing, which includes provision for aircraft engine tests and a mitigation plan for approval by the local authorities, thus showing that it has been properly taken into account in the Applicant's proposals.

Air Quality

3.1.18 The ExA asked for the Applicant's view on its proposed new requirement, 'Air Quality Monitoring'.

3.1.19 The Applicant explained that there is currently a commitment in the **draft s106 Agreement** [REP6-063] which requires the Applicant to provide a monitoring

plan as set out within the draft Air Quality Action Plan (Appendix 5). That monitoring commitment includes the provision of funding for three RBBC monitoring sites and two automatic reference standard monitors, enabling the continuous collection of air quality concentrations near the airport. That allows comparison against national standards and provides data to understand sources of emissions and to understand future changes in concentrations.

3.1.20 The Applicant further noted that it has assessed air quality impacts and found no likely significant effects and that agreement on air quality technical matters and results has been reached with the JLAs. The obligation proposed is therefore a monitoring one as there is no specific mitigation required for air quality purposes. The Applicant confirmed that it is accepting of an air quality monitoring requirement which reflects what is currently proposed in the **draft s106 Agreement** [REP6-063]. However, if the requirement proposed by the ExA is intended to go further and suggest a plan that requires mitigation steps to be taken, the Applicant confirmed that it does not accept this as it has not shown any significant effects are likely to arise from air quality requiring mitigation.

3.1.21 The Applicant also flagged the commitment made to add additional monitoring (beyond that noted above) which it has committed to installing across the airport at four sites with continuous automatic monitoring under the **draft s106 Agreement** [REP6-063].

3.1.22 In response to the JLAs' comments regarding air quality and EMG, the Applicant noted that submissions have been made by both parties and that it will respond to the JLAs' Deadline 7 comments at Deadline 8.

3.1.23 In response to comments from CAGNE, the Applicant set out that CAGNE's suggestions for mitigation are not required by policy or law. The Applicant has assessed likely significant effects and has found no such effects requiring mitigation. It does not need to implement anticipatory mitigation measures where there are no likely significant effects and there is no requirement to do more than this or speculate on air quality impacts. Any attempt to do so would introduce uncertainty and is not required by policy or law. The Applicant noted that its discussions with the JLAs have reached a positive conclusion regarding detailed technical matters around modelling methodologies and scenarios. Hence, the assessment has been carried out appropriately, has been agreed with JLAs and the Applicant is confident in the reported results which conclude that there are no likely significant effects in relation to air quality.

3.1.24 In relation to comments on monitoring, the Applicant explained that it has proposed monitoring as discussed by the JLAs. The proposal from the Applicant is for that to continue until 2038 and payment would then cease on the basis that

there had been no exceedances of the objectives for two prior years. The Applicant confirmed that is what would be expected as concentrations are currently well below the objectives and the assessment has demonstrated there are no significant effects from the Project in any year.

3.1.25 Regarding ultrafine particles ("**UFPs**"), the Applicant explained that there are no legal standards against which to assess these and there is no detailed modelling methodology to support any assessment approach. The Applicant is willing to commit to monitoring of UFPs in future if a relevant standard is put in place.

3.1.26 The ExA asked the Applicant to clarify its position regarding committing to monitoring until 2047.

3.1.27 The Applicant clarified that it has proposed to undertake monitoring until 2038, at which point obligations would cease if there have been no breaches of the relevant air quality standard for two consecutive years.

3.1.28 The JLAs commented that they would like to go further regarding monitoring post-2038, firstly to consider 3 years of monitoring data before cessation of monitoring; and also to include margins of tolerance (e.g. 10-20%) below the air quality standards at the time to then have confidence thereafter that effects would remain below those thresholds.

3.1.29 The Applicant invited the JLAs to submit these comments in writing and agreed to respond to them once received.

Socio-economic

3.1.30 The ExA explained that its new proposed requirement ('Employment, skills and business implementation plan' – "**ESBS IP**") is based on drafting provided by the Applicant in its **Response to ExQ2,** SE.2.8 [REP7-091] and that it has made some tweaks to ensure that the socio-economic benefits of the proposed development are adequately secured and realised. The ExA invited comments on the proposed requirement.

3.1.31 The Applicant expressed that its preferred position is to secure the ESBS IP through the s106 Agreement. The Applicant noted the ExA's point regarding the requirement and the progressing of the s106 Agreement and explained that substantial progress is being made. The Applicant also explained that it has heard the JLAs' request for more detail in any requirement on the ESBS IP and shared the JLAs' view that if it were to come forward as a requirement then more detail would be required.

3.1.32 The ExA asked for an update of the discussions taking place regarding the Housing Fund and whether, regardless of how it is secured, it is required as a form of mitigation.

3.1.33 The Applicant explained that it rejects the principle of a housing fund and it being required as mitigation as there are no likely significant effects for which it would mitigate. The Applicant expressed that any discussion on the wording of a housing fund requirement is entirely academic as it does not accept the rationale for the housing fund. The Applicant noted as a general observation that the requirement as drafted does not provide any details regarding a financial limit or quantification of a sum, nor guidance of how a figure would need to be reached.

3.1.34 [**Post-Hearing Note:** the Applicant has provided its full response to this requirement as Appendix A to this written summary.]

3.1.35 The ExA asked the parties for an update on negotiations on the London Gatwick Community Fund.

3.1.36 The Applicant commented that issues have narrowed and matters are progressing. It explained that it is anticipating what will need to be done if a s106 agreement cannot be agreed before the end of the examination, though the Applicant noted that it was continuing to work towards agreement and had been having positive discussions over the last few weeks. The Applicant relayed that it was anticipating feedback from the JLAs before Deadline 8 and expected to be in a position to confirm whether agreement can be reached by Deadline 9. The Applicant explained that, if agreement is reached by that time, a signed and completed s106 Agreement will be submitted at Deadline 9. If not, the Applicant will prepare and submit a unilateral undertaking and/or make equivalent provision in the DCO requirements at Deadline 9 to secure the relevant obligations.

3.1.37 The ExA asked whether the Community Fund is a form of mitigation and if so, whether it should be secured by requirement.

3.1.38 The Applicant confirmed that it is a form of mitigation, however, as per previous submissions, the flexibility and mechanisms of the s106 Agreement are better suited for this matter rather than a requirement.

3.1.39 [**Post-Hearing Note**: see the response to **Action Point 11** in the Applicant's **Response to Actions - ISH 2-5** [REP2-005].]

3.1.40 The ExA asked the Applicant if it could provide proposed wording for a requirement on the Community Fund, as it has done for the ESBS IP.

3.1.41 The Applicant highlighted that there would be difficulty in doing so for Deadline 8 and that, given the Applicant's position that this is best dealt with in the s106 Agreement, the Applicant is reluctant to do so at this stage unless specifically asked to do so by the ExA and would not want to divert resource away from the s106 agreement negotiations.

3.1.42 The ExA noted ESCC's response to SE.2.7 in the JLAs' **Responses to ExQ2** [REP7-110] that the current version of the ESBS strategy does not include links to career hubs working across East Sussex and only refers to local capital careers hubs which have been superseded, and asked the Applicant whether this is something that is going to be updated.

3.1.43 The Applicant confirmed that it is updating the ESBS at Deadline 8 to take into account those comments.

3.1.44 The ExA asked whether SCC are or will be a member of the steering group.

3.1.45 [**Post-Hearing Note**: The Applicant can confirm that they will be a member of the ESBS Steering Group.]

Greenhouse gases

3.1.46 The ExA referred to its proposed amendments to requirement 21 (carbon action plan – "**CAP**") and its suggestion that the CAP be modified to make provision for CBC to be provided with the Monitoring Report and consulted on any Action Plan required if further interventions are needed. The ExA asked for the Applicant's views on the proposed changes.

3.1.47 The Applicant confirmed that it is happy to make those changes and to include the suggested consultation commitments identified in the reasoning for the amendments and will submit an updated CAP at Deadline 8.

3.1.48 In response to comments from interested parties, the Applicant observed that a number were not about the requirement in question but were wider points regarding EIA and the case of *R(Finch on behalf of the Weald Action Group) v Surrey County Council and others* [2024] UKSC 20. The Applicant noted that it has responded to CC.2.1 in its **Responses to ExQ2** [REP7-079] on *Finch* and will supplement that with any further submissions it considers necessary prior to the end of the examination.

3.1.49 The Applicant also noted that the JLAs' submissions, in part, referred to their overarching proposed EMG approach and flagged that the Applicant has set out repeated submissions as to why the approach is not accepted, including in its **Response to JLA's EMG Framework Paper** [REP6-093]. The Applicant

referred specifically to section 4 of that note on carbon and GHG and noted that it would respond further at Deadline 8.

Ecology and nature

3.1.50 The ExA noted in respect of requirement 8 (landscape and ecology management plans ("**LEMP**")) that it has proposed a change regarding tree planting 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 Reports and Arboricultural Impact Assessment ("**AIA**") which sets out how the proposed tree planting would comply with CBC policy CH6. The ExA asked for the Applicants' comments on the proposal and recommended amendments and how the quantity of tree planting required to comply with that policy is otherwise secured through the DCO if the amendments were not to be included.

3.1.51 The Applicant responded that it agrees with the principle of planting more trees than are removed and confirmed that it sees this being addressed by the LEMPs provided for each part of the Project. However, the Applicant noted that the AIA conclusions are based on Project-wide tree removal and planting. Therefore, it is entirely possible that an individual LEMP (for example around the highways) may show a net loss of trees in that area, whilst not being inconsistent with the overall net gain of trees that the Project will achieve. The Applicant explained that the AIA calculation has been carried out on a worst-case scenario basis to demonstrate that even in the worst case, the Applicant can replace the number of trees lost both project wide and within CBC to the extent required by the JLAs. The Applicant confirmed that it had seen the detailed comments and draft requirement proposed by the JLAs and that it considered a form of wording can be agreed.

3.1.52 In response to comments from the JLAs regarding a lack of information shared with them regarding tree replacement, the Applicant noted that it had provided a substantial amount of information on this issue at Deadline 6 and, as far as it was concerned, this information showed that the Applicant met policy requirements – and comfortably so. The Applicant confirmed that it has seen the requirement advanced by the JLAs and does not have an issue with the principle but needs to look at the mechanism for the delivery. The Applicant explained that it is considering the use of a tree balance statement as a preferable mechanism and that it can progress that concept through discussions with the JLAs.

3.1.53 The ExA queried how the Applicant can be confident that it meets the requirements of the policy within the redline if given the level of detail of its analysis to date.

3.1.54 The Applicant responded that it would take away comments on this point but that, so far as the Applicant was concerned, it had secured the necessary planting through the OLEMP and has shown, even on a worst case basis, that the relevant policy can be comfortably met. The Applicant confirmed that it addressed the JLAs' concerns in their Deadline 6 submissions in the Applicant's updated **Outline Arboricultural and Vegetation Method Statement** submitted at Deadline 7 [REP7-030 to 7-041].

3.1.55 The ExA asked that the Applicant and the JLAs submit an update on the mechanism for securing tree planting at Deadline 8.

3.1.56 [**Post-Hearing Note**: the Applicant has responded to this query in response to **Action Point 22** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.1.57 The ExA referred to Schedule 6 of the Draft s106 Agreement (Biodiversity and Landscaping) and noted that at REP6-112 the JLAs have raised concerns regarding trees and the creation of a landscaping ecology enhancement fund.

3.1.58 In response to the JLAs comments regarding environmental and biodiversity impacts which it considers not to be mitigated through the s106 agreement or requirements, the Applicant noted that there are drafting points outstanding between the parties regarding on these topics, but that the approach taken in the s106 Agreement as drafted is adequate. The Applicant explained that it considers that the best approach is to deliver benefits through the Gatwick Greenspace Partnership ("**GGP**").

3.1.59 In response to the JLAs' comment that their understanding is that the remit of the GGP is geographically limited, the Applicant noted that it considers the GGP's remit to be adequate but that discussions are ongoing.

3.1.60 The ExA noted that it would be useful to have commentary on this at Deadline 8.

3.1.61 [**Post-Hearing Note**: the Applicant has responded to this query in response to **Action Point 24** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.1.62 The ExA asked how effects would be addressed in the future if the DCO was not granted bearing in mind that the Applicant is seeking to grow the airport to 67mppa.

3.1.63 The Applicant responded that it is required to assess and mitigate the likely significant effects of the scheme itself and the likely significant effects of that scheme from an airport operation perspective are only realised upon

commencement of dual runway operations. There are already controls on the use of the airport which apply to the airport in a planning sense, including the control that is currently applied to the use of the northern runway.

3.1.64 The ExA referred to requirement 25 (operational waste management plan – "**OWMP**"), noting that it has proposed amendments to bring forward the approval of the OWMP ahead of construction of the replacement CARE facility. This would prevent a situation where the existing CARE facility has been removed and the replacement facility is being constructed, but can't be brought into operation if the OWMP is not approved. The ExA asked the Applicant for comments on this and to explain what would happen if the facility had not been constructed earlier.

3.1.65 The Applicant confirmed that it accepts this amendment and will incorporate this in the next version of the draft DCO.

3.1.66 [**Post-Hearing Note:** this has been incorporated as new requirement 35 (odour monitoring and management plan) in the **draft DCO** (Doc Ref. 2.1 v10) submitted at Deadline 8.]

3.1.67 The ExA referred to its new proposed requirement for the odour management and monitoring plan based on the JLAs' suggested requirements in REP7-108 to ensure that procedures are in place to monitor and manage impacts, in particular for residents of the Horley Garden Estate and asked the Applicant for comments.

3.1.68 The Applicant responded that it does not think that this requirement is necessary, on the basis that there is no evidence to justify it. The air quality assessment undertaken by the Applicant follows the Institute of Air Quality Management (IAQM) multi-tool approach and identifies no likely significant effects and therefore nothing that requires mitigation. As acknowledged in the ExA's rationale for the new requirement, the Applicant has submitted an **Odour Reporting Process Technical Note** [REP7-094] which sets out reporting requirements in the case of odour. The Applicant considers that the contents of the Technical Note can be secured if required, but does not accept that any measures should go further than the contents of the Technical Note and thereby imply that there is any likely significant effect that needs to be monitored and addressed as such. The Applicant confirmed that it could accept a requirement that essentially follows the process set out in the Technical Note but would struggle to accept anything further.

3.1.69 The Applicant further explained that it is inherent within the reporting process set out in the Technical Note that any issue identified would be considered in an appropriate manner and addressed by the Applicant. The Applicant emphasised that previous odour monitoring was undertaken on a purely voluntary basis to

consider odour in a proactive manner – thus demonstrating the Applicant's commitment to taking proactive measures even where not legally required to do so. The previous voluntary study provided useful data but also highlighted that methodologies for odour monitoring present issues including regarding identify trace odour and high uncertainty regarding VOC elements. The Applicant confirmed that it has committed to monitoring air quality across the airport site under Schedule 1, Air Quality in the **draft Section 106 Agreement** [REP6-063], which will give useful information as to sources of emissions, and the JLAs will be able to feed into that process.

3.1.70 The ExA asked how the **Odour Reporting Process Technical Note** [REP7-094] would provide for actions that deal with odour impacts and how they would be secured.

3.1.71 The Applicant explained that the Technical Note outlines a six-step process at paragraph 2.2.2 regarding complaints to review the information received, undertake an assessment to understand what was happening at the time, identify where possible, the source of the odour, work with the complainant or the airport operators and particular teams within the airport to understand what was happening at the time to best understand the conditions which caused the odour and be able to come forward with an action plan to respond, where necessary.

3.1.72 The ExA commented that the six steps deal with matters such as investigation, analysis and reporting but that there doesn't seem to be any detail in that document to say that the Applicant has to take action in response to those complaints.

3.1.73 The Applicant confirmed that it will review the process set out to see if further clarification can be provided on actions.

3.1.74 [**Post-Hearing Note**: the Applicant has responded to this query in response to **Action Point 25** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.1.75 In response to comments on odours from waste, the Applicant noted that is already obliged to submit for approval an operational waste management plan under requirement 25 and site waste management plans under requirement 30 of the draft DCO. Publication of air quality monitoring is also provided for in the s106 agreement.

3.2. The Applicant and Joint Local Authorities will be asked about outstanding matters in respect of the draft section 106 Agreement [REP6-063].

3.2.1 The ExA asked whether the s106 Explanatory Memorandum [REP7-075] provides sufficient justification for the levels of funding proposed in the s106 Agreement and if it can be confirmed how these numbers have been arrived at. The ExA explained that they need to understand the level of contribution, why it has been set and how the numbers have been arrived at.

3.2.2 The Applicant responded that, given discussions are ongoing, it considers that it is best to let those continue and – if agreed – the Applicant can explain in the s106 explanatory memorandum how the final figures have been reached.

3.2.3 The ExA asked for an explanation of the numbers comprising, for example, the hardship fund, off-airport support contribution and transport mitigation fund and noted that an explanation at Deadline 9 would be late in the examination.

3.2.4 The Applicant responded that where it is able to give information at Deadline 8 it will do so and will signpost information to come after that. The Applicant will also explain the process that has been followed to arrive at those figures.

3.2.5 [**Post-Hearing Note**: the Applicant has responded to this query in response to **Action Point 27** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.3. The Applicant and Joint Local Authorities will be asked about the scope of, and agreement about, control documents.

3.3.1 The ExA explained that it had been through the list of control documents in the Planning Statement, which have been added to over time, to understand how they are tied to requirements. The ExA asked how the following are secured: Water Management Plan, Construction Communication and Engagement Plan, Outline Invasive and Non-Native Species Management Strategy, ESBS IP and Surface Access Highways Surface Access Drainage Strategy.

3.3.2 The Applicant explained that the Water Management Plan, Construction Communication and Engagement Plan and Outline Invasive and Non-Native Species Management Strategy are secured as appendices to the **Code of Construction Practice** (Doc Ref. 5.3) by virtue of requirement 7 (code of construction practice). The ESBS IP is secured in the s106 Agreement but may come forward as a new requirement if needed. The Surface Access Drainage Strategy is secured by requirements 6(2)(c) (national highway works) and 11(2) (local highway surface water drainage).

3.3.3 The ExA noted that the CoCP states that internal compliance docs (community and engagement management plan, site waste management plans, resource management plans, pollution prevention plan, adverse weather management measures) will be prepared and don't require approval by the local authorities. The ExA asked why they are not subject to Local Planning Authority consultation or approval.

3.3.4 The Applicant responded that these documents deal with how the Applicant liaises with its contractors. Local authority approval is not needed regarding the relationship between the Applicant and its contractors, however the Applicant is trying to give comfort to show how that process is being followed by including reference to these documents in the CoCP.

3.3.5 The ExA stated that the community and engagement management plan has wider implications than simply contractors.

3.3.6 The Applicant responded that the Community and Engagement Management Plan is secured via the CoCP and therefore requirement 7. This is not a purely internal compliance plan.

3.3.7 The Applicant noted that it is preparing a control document signposting document which will allow the tracing process to be followed through regarding each control document for Deadline 9.

3.3.8 The ExA referred to submissions by the Joint Surrey Authorities at REP6-101, noting that it has not seen a response to that document and asked for the Applicant look at that again.

3.3.9 [**Post-Hearing Note**: the Applicant has responded to this query in response to **Action Point 29** in its **Response to Actions ISH9: Mitigation** (Doc Ref. 10.63.2).]

3.4. The Applicant and Joint Local Authorities will be asked about specific articles and schedules of the dDCO (excluding Schedule 2) where agreement is unlikely to be reached by the close of the Examination.

3.4.1 The ExA asked for any comments on the 'Preliminary' section of the dDCO.

3.4.2 The Applicant explained that, as the ExA is aware, the JLAs made comments on the dDCO at Deadline 7 but that the Applicant also made changes to the dDCO at Deadline 7. The Applicant explained that it would therefore be helpful for the JLAs to identify where they consider issues to remain outstanding after the changes having been made so that the Applicant can consider and address those.

3.4.3 The JLAs noted that they will limit comments to provisions where it is unlikely that the parties will reach agreement including article 11 (street works) – specificity and list of streets; article 25 (removal of hedgerows); Schedule 1; and the requirements.

3.4.4 In response to the JLAs' submissions, the Applicant commented that in respect of articles 11 and 25, the Applicant has set out responses in response to DCO.2.8 and 2.12 in its **Responses to ExQ2** [REP7-081]. Further to this, there is precedent to establish the Applicant's approach to article 11 (street works) and this has been explained in its response in respect of that article. With regards to article 25 (felling or lopping of trees and removal of hedgerows), there are sufficient protections in the DCO already including requirement 28 (arboricultural and vegetation method statement) such that a list of hedgerows is not required.

3.4.5 In relation to Schedule 1, in the **Schedule of Changes to the draft DCO** submitted at Deadline 7 [REP7-004] the Applicant has set out the amendments that have been made for clarity and to add detail that is otherwise contained in the Design Principles (Doc Ref. 7.3). The Applicant explained that this formed part of a comprehensive exercise on design matters which the Applicant undertook following ISH 8 as described in its **Response to Deadline 6 submissions** [REP7-096] that respond to a number of interacting points about work descriptions, work plans, parameter plans, design principles, etc. The Applicant noted that it will await the JLAs' response at Deadline 8 but hopes that the changes made and the detailed explanation provided will address their concerns.

3.4.6 The Applicant noted that the JLAs submitted further comments on the works descriptions at Deadline 7, some of which the Applicant considers to have been addressed by its response at Deadline 7, others the Applicant believes can be addressed by the new proposed parking cap. The Applicant confirmed that a response will be provided at Deadline 8 to those submissions including signposting to where a change has been made previously to the Deadline 7 response.