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**Representations prepared on behalf of Holiday Extras Ltd as it relates to
Gatwick Airport DCO Application**

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1.00 ISSUES SURROUNDING THE APPLICANT'S SUGGESTED CAP TO CONTROL ON-AIRPORT CAR PARKING SPACES

I. A New Requirement 37

1.01 The Applicant has proposed the imposition of a cap on the overall number of on-airport car parking spaces to form a new Requirement 37 in the Schedule of Changes to the Draft Development Consent Order. The new Requirement 37 arises from an alternative to the proposed Regulation 20 recommended by the Examining Authority arising from issues at the ISH9 meeting which took place on 30th July 2024.

1.02 The new Requirement 37 relating to on-airport car parking spaces reads as follows:

Car Parking Spaces

"37. (1) The undertaker shall not provide more than 53,260 car parking spaces within the Order limits unless otherwise agreed in writing by CBC.

(2) Upon commencement of the authorised development and by no later than each anniversary of that date the undertaker must submit an annual report to CBC providing an update on the number of car parking spaces provided by the undertaker within the Order limits."

1.03 It is evident from **Document REP8-114** and the Applicant's Response to the Examining Authority's Rule 17 letter on parking at R17c.6 that:

"The cap reflects the existing "baseline" car parking provision, the maximum amount of parking capacity applied for through the DCO and the expected increase in onsite parking numbers that could be achieved by utilising existing permitted development rights under the Town & Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 8 Class F (i.e. the 2,500 spaces associated with the phased Robotic Parking project and the 3,250 within MSCP7 being delivered by GAL and under construction with expected completion in 2025.)"

1.04 It follows, relying on the Applicant's own response, that the proposed cap subsumes within its provisions, not only car parking which it is said relates to the future baseline, but also car parking which in turn forms an integral part of the Project, as well as on-airport car parking operated by the Applicant utilising "permitted development rights". To this end, the Applicant's response on robotic parking provision in response to the Examining Authority's R17c.5 of **Document REP8-114** makes no sense.

1.05 It can be seen that that the Applicant's response in proposing a cap on the number of on-airport car parking spaces, through a new requirement in the Draft DCO, represents a

move to distance itself from the Examining Authority's recommended amendment in Regulation 20.

- 1.06 This is achieved by introducing two new Interim Mode Share Commitments as part of its updated Appendix 5.4.1: Surface Access Commitments [**Document REP8-953**]. Where previously the two Interim Mode Share Commitments were incorporated as requirements preventing the first use of certain on-airport facilities forming part of the Project, and thereby having a direct bearing on the DCO application; no similar relationship exists in terms of the Applicant's proposed cap. In contrast, the Applicant has sought to decouple the Interim Mode Share Commitments from development forming part of the wider Project, so that they become stand-alone requirements.
- 1.07 There is no longer any link between Commitment 1A and 2A set out in **Document REP8-053** and the overall timing of the certain aspects of development the subject of the DCO. Significantly, there is an absence of any direct link between the same Interim Mode Share Commitments and the Applicant's proposed cap of 53,260 on airport car parking spaces, a move which effectively dilutes the purpose of the Examining Authority's proposed Requirement 20.
- 1.08 To these considerations should be added that the Applicant's response is designed to negate the Examining Authority's suggestion, advanced in its Regulation 20, that "*permitted development rights*" relating to on-airport car parking should be removed.

II. The Removal of "*Permitted Development Rights*"

- 1.09 Representations raised on behalf of my clients Holiday Extras Ltd at the Deadline 8 stage [**Document REP8-156**] whilst acknowledging this relationship, also pointed to other reasons why the removal of "*permitted development rights*" regarding on-airport car parking is particularly important in circumstances relating to the current DCO application.
- 1.10 In this regard reference was made to existing and proposed Policy GAT3 set out in the adopted and emerging Crawley Borough Local Plans which the Applicant has consistently supported in terms of their intentions and justification. It was revealed in **Document REP8-156** that the Applicant on "*Operational Land*" has sidestepped the requirements in Policy GAT3 in which applications for additional or replacement airport

parking within the boundary of London Gatwick Airport as shown on the Proposals Map are required to justify “a demonstrable need in the context of proposals of achieving a sustainable approach to surface transport access to the airport.” By relying on “permitted development rights” set out in Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended), the Applicant can effectively avoid having to comply with the provisions of Policy GAT3.¹

III. Would the Proposed Cap Result in the Applicant Enjoying a Dominant Position in Airport Related Car Parking?

- 1.11 In this way, as pointed out in paragraphs 4.16 and 4.17 of **Document REP8-156** the Applicant as a private company enjoys a dominant position in the market place for airport related car parking within the boundaries of London Gatwick Airport as shown in the respective Proposals Maps, a position they are able to use to their benefit. This does not produce a level playing field, insofar as the same position is not afforded to those private companies situated within the boundary of the same airport, but which do not benefit from “permitted development rights” in the same way as the Applicant.
- 1.12 Seen in these terms, there is a need for consistency in the effective operation of Policy GAT3 which is not evident at present, through ensuring that the Applicant as well as all other private companies located within the boundary of London Gatwick Airport are all required to comply with the terms of Policy GAT3, when contemplating applications for additional or replacement airport related car parking.
- 1.13 The provision of a cap as now suggested by the Applicant to be inserted into the draft DCO application through Requirement 37 would effectively prevent other private companies within the boundaries of London Gatwick Airport, and indeed elsewhere, from being able to prove a demonstrable need for their proposals in the context of achieving a sustainable approach to surface transport access to the airport.
- 1.14 In short, the cap as promoted by the Applicant would result in GAL enjoying a monopolistic position, on the basis that should applications be submitted for airport related car parking by other private companies, it is easy to see how they would effectively exceed the cap, and thereby be said to undermine the basis on which the DCO

¹ See Table 1 attached to **Document REP8-156**

application has been devised in terms of airport related car parking. This situation would render Policy GAT3 meaningless. It would potentially have implications in terms of competition law.

- 1.15 In the alternative, it is important to consider the Applicant's reply to R17c.2 comprising part of their Response to the Rule 17 letter on parking [**Document REP8-114**], viz:

"Any further parking provision beyond 53,260 car parking spaces within the Order limits would need to be agreed in writing by CBC and would need to demonstrate in accordance with Commitment 8A of the Surface Access Commitments that it provides 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. Commitment 8A also requires the Applicant to consult with TFSG in advance of providing such parking."

- 1.16 In these circumstances, and given that Commitment 8A of the Surface Access Commitments refers to a combined on and off airport supply, and to the fact that in recent years lawful long term off-airport car parking provision has continued to come forward through Certificates of Existing Lawful Use or Development, the question which must be posed is how would the cap of 53,260 spaces be affected if the process of further Lawful Development Certificates were granted? If the figure set out in the cap is to remain unaffected, but as a result exceeded, this would have implications particularly in respect of Commitments 1 to 4 of the Surface Access Commitments. The cap in these circumstances would fail to meet its stated intentions, due to the absence of a direct relationship with the decoupled Interim Mode Share Commitments.

IV. The Need for Independent Governance

- 1.17 I have previously raised concerns over the need for independent governance surrounding Surface Access Commitments and the fact that the Applicant is responsible for convening and holding meeting relating to the Gatwick Air Transport Forum and the Transport Forum Steering Group. It is clear from paragraph 3.1.6 and 3.1.7 outlined at paragraph 2.05 of **Document REP6-068** that the Applicant is seeking to introduce flexibility which is considered inconsistent with setting meaningful surface access targets governing the performance of certain commitments, diluting the basis on which the Environmental Statement is founded.

- 1.18 The Examining Authority has requested the Applicant in R17c.2 in its response to the Rule 17 letter on parking [**Document REP8-114**] to provide an estimate of the theoretical maximum increase in onsite parking numbers that could be achieved by increasing the plan areas of all proposed decked or multi storey car parking to utilise all practically available correspondence surface parking site areas; and the theoretical maximum increase of onsite parking numbers that could be achieved by utilising existing permitted development rights under the Town & Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 8 Class F. This number should be based on the completed layout of the proposed development.
- 1.19 The answers to these two questions do not appear to have been provided by the Applicant.
- 1.20 Similarly, the Examining Authority has posed the question why the delivery of the 2,500 robotic car parking spaces by means of permitted development is planned to start to be delivered in 2025/26 when occupancy levels would be predicted to be less than 75% until beyond 2033. In response the Applicant refers to the need to avoid pressure on less sustainable parking locations having regard to its own capital investment project and the fact that new technology would have to be introduced in association with the new facilities constructed to replace capacity lost during construction as part of the Project.
- 1.21 My clients are not convinced of the reasoning provided by the Applicant and consider that the main reason is that the Applicant would wish to take maximum advantage of *“permitted development rights”* in advance of the commencement of the Project.
- 1.22 With these comments in mind, reference should be made to the need for effective independent governance of mode share commitments, a matter specifically referred to in the House of Commons Transport Committee Report on Surface Transport to Airports, having been referred to in paragraph 2.04 of **Document REP8-156**. It provides a mechanism, ensuring independence in decision-making at a time when lawful long term off-airport car parking is an important contributor to airport related car parking, and where in spite of the provisions of Commitment 8A, long term off-airport providers are excluded from performing any role in discussions on future surface access provision to the same airport.

V. Key Discrepancies in the Car Parking Strategy

- 1.23 I have previously outlined in earlier representations on behalf of my clients [**Document REP6-127**], that the figures set out in Table 2 of the Car Parking Strategy [**Document REP1-051**] are inaccurate, resulting in an expected total passenger car parking provision for the Project above the estimated on-airport passenger car parking provision required, allowing for a maximum occupancy of 87.5%.
- 1.24 This situation has been compounded in Row B as well as Row E of Table 3 entitled “*Derivation of Peak Parking Demand for 2019 and 2032*” forming part of the Applicant’s Response to the Rule 17 letter on parking, with particular reference to R17c.8, for the same reasons already advanced in **Document REP6-127**.
- 1.25 The Applicant’s response to the earlier inaccuracy in Row B of Table 2 of the Car Parking Strategy [**Document REP1-051**] is that it is “*disproportionate*” to carry out an accurate assessment of all lawful long term off-airport car parking sites, which in the light of the voluminous evidence submitted as part of the DCO application is a disingenuous comment to make in the circumstances of a major infrastructure project.

VI. Conclusions

- 1.26 It is my client’s view that Requirement 20 relating to surface access set out on pages B8 to B11 inclusive of Annex B arising from the ISH9 meeting held on 30th July 2024 should be retained and is far more preferable than what is now proposed by the Applicant, which is essentially to introduce a cap on the overall number of on-airport car parking spaces, whilst at the same time decoupling elements of the same Requirement 20 and inserting them as two new stand-alone Interim Mode Share Commitments in an updated version of Appendix 5.4.1: Surface Access Commitments.
- 1.27 There is a need to provide a robust link between on-airport car parking provision and the requirement to comply with key surface access commitments effectively tied into the development of the Project. This requires a number of stipulations of the form set out in Requirement 20. Simultaneous with this provision is a need to remove “*permitted development rights*” relating to the provision of additional on-airport car parking, if only to ensure consistency with Policy GAT3 which should have as its basis a level playing field with other private companies contemplating additional or replacement airport related car parking, at the same time establishing a continuing purpose behind the same policy.

- 1.28 It is important that a form of independent governance is provided to ensure these requirements are met, whilst at the same time avoiding the position in which the Applicant would enjoy a controlling role in the provision of future airport related car parking, having the effect of stifling competition.

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