

The Planning Act 2008

Gatwick Airport Northern Runway Project

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the
Secretary of State for Transport

Volume 1 of 2

Examining Authority

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REPORT VOLUMES

This Report comprises two volumes.

This is Volume 1 of 2.

1. Volume 1: Recommendation Report
2. Volume 2: Appendices

OVERVIEW

File Ref: TR020005

The application, dated 6 July 2023, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on that date.

The Applicant is Gatwick Airport Limited.

The application was accepted for examination on 3 August 2023.

The examination of the application began on 27 February 2024 and was completed on 27 August 2024.

The development proposed seeks powers to enable dual runway operations at Gatwick Airport through altering the existing northern runway, lifting restrictions on the northern runway's use and delivering the upgrades or additional facilities and infrastructure required to increase the passenger throughput capacity of the airport. This includes substantial upgrade works to certain surface access routes which lead to the airport.

Summary of Recommendation:

The Examining Authority recommends that based on the Applicant's final draft Development Consent Order development consent should not be granted for the Proposed Development. Conversely, with the Examining Authority's recommended Development Consent Order, and subject to the necessary Crown approvals being granted, the Examining Authority recommends that the Secretary of State for Transport makes the Gatwick Airport (Northern Runway Project) Development Consent Order in the form attached at Appendix E of this Report.

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Planning Inspectorate

ERRATA SHEET – Gatwick Airport Northern Runway Project - Ref. TR020005

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport dated 27 November 2024.

Page No.	Paragraph for further clarification	Correction
114	ER 6.4.125	<p>With regard to daytime, referring to Figure 1 of [REP9-148] and the relevant conclusion [ER 6.4.113], the Applicant's central fleet transition case would be expected to achieve the ExA's proposed air noise limit for the first five years of dual runway operations, but to achieve a further 8% reduction in contour area from year 6 would rely upon increasingly uncertain continued reductions in aircraft source noise beyond 2035. Hence upon review the ExA recommended no further reduction in the day-time air noise limit beyond the first 8% reduction in contour area, compared with the same noise contour area in 2019;</p> <p>With regard to night-time, referring to Figure 2 of [REP9-148] and the relevant conclusion [ER 6.4.114], the Applicant's central fleet transition case would be expected to achieve the ExA's proposed air noise limit for years 1 to 5 to the extent that the Applicant's central case would by the sixth year already have achieved the ExA's proposed further 8% reduction in contour area for years 6 to 10. However, achieving a further 8% from year 11 would rely upon increasingly uncertain continued reductions in aircraft source noise beyond 2035. Hence upon review the</p>

Page No.	Paragraph for further clarification	Correction
		ExA recommended no further reduction in the night-time air noise limit beyond the second 8% reduction in area compared with 2019.
375	ER 22.4.9	<p>From “with regard to air noise limits.” As explained in Chapter 6 of this Report, the Applicant should have based its proposals for air noise limits on its original central fleet transition case.”</p> <p>From “as set out in policy.” This statement considered all the evidence presented to us including that additional to [ER 6.4.118].</p>

1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

- 1.1.1. An application for the Gatwick Airport Northern Runway Project (NRP) (the Proposed Development), Planning Inspectorate (the Inspectorate) reference TR020005, was submitted by Gatwick Airport Limited (the Applicant) to the Inspectorate on 6 July 2023 under section (s) 37(2) of the Planning Act 2008 (PA2008) and accepted for examination under s55 of the PA2008 on 3 August 2023 [PD-001]¹. This Report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State (SoS) for Transport.
- 1.1.2. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the SoS for the Department of Levelling Up, Housing and Communities (now the Ministry of Housing, Communities and Local Government) in its decision to accept the application for examination in accordance with s55 of the PA2008 [PD-001].
- 1.1.3. The Proposed Development comprises alterations to the existing northern runway to enable dual runway operations, the development of existing infrastructure and facilities to increase the airport's passenger throughput capacity and works to highways to upgrade the existing surface access routes to the airport [APP-030]. The Applicant in its Planning Statement [APP-245] confirms that *"The Project is classed as a Nationally Significant Infrastructure Project ("NSIP") because it comprises both "airport-related development" and "highway-related development" under Section 14 of the Planning Act 2008."*
- 1.1.4. The Proposed Development comprises alterations to an existing airport under s14(1)(i) and 23(1)(b), (4), (5) and (6) of the PA2008, as it involves the alteration of an airport where the effect is to increase the number of passengers by at least 10 million per year. As such, the Proposed Development meets the definition of an NSIP set out in s14(1)(i) of the PA2008 and requires development consent in accordance with s31 of the PA2008.
- 1.1.5. Furthermore, the Proposed Development includes works to the highway which are classed as an NSIP under s14(1)(h) and 22(1)(b), (3) and (4) of the PA2008, as they involve the alteration of a highway in England to which National Highways is the highway authority where the speed limit is 50 mph or over and the works exceed the 12.5 hectare limit that applies to that category of road.
- 1.1.6. This Report does not contain extensive summaries of all documents and representations received, although full regard has been had to them and all important and relevant matters arising. Key written sources are set out further below.

¹ References to documents in the Examination Library (EL) for this Report are enclosed in brackets []. The EL provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number eg [APP-001]. The reference numbers are used throughout this Report and the EL is included in Appendix C of this Report to allow the reader to access them directly.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 15 August 2023, Kevin Gleeson (Lead Member), Philip Brewer, Helen Cassini, Jonathan Hockley and Neil Humphrey were appointed as the ExA for the application under s61 and s65 of the PA2008 [PD-004].

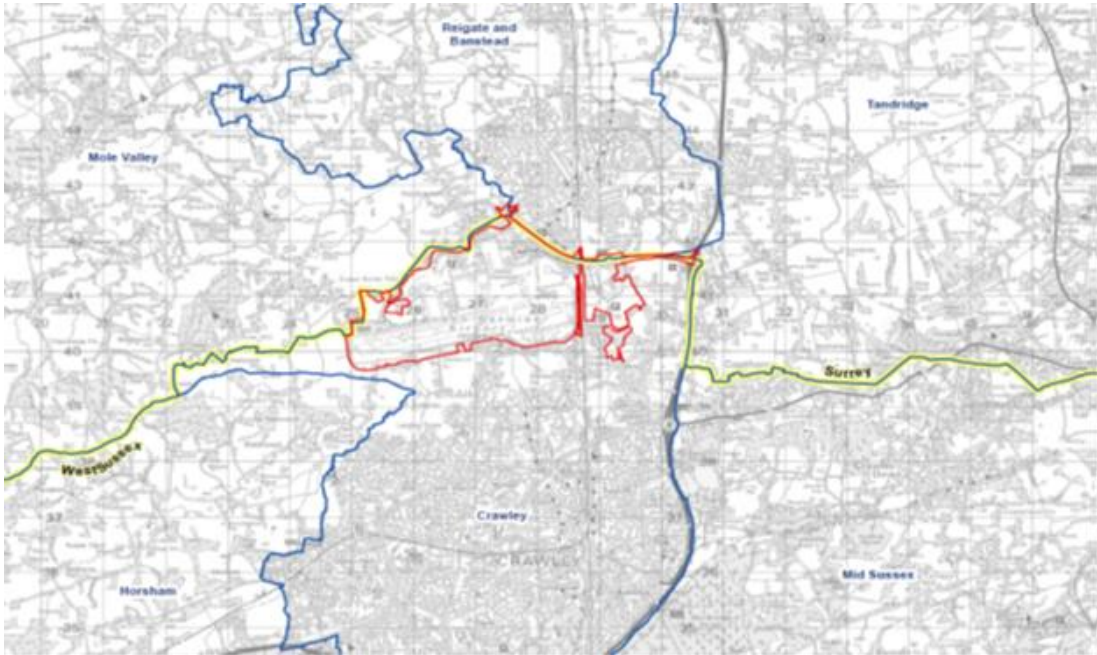
1.3. THE APPLICATION

- 1.3.1. A visual representation of the existing context and key components of the Proposed Development can be found in the Applicant's Design and Access Statement (DAS): Volume 1 [[AS-154](#)]. Similarly, the executive summary of the Applicant's Needs Case document [[Section 1, APP-250](#)] provides a useful written summary of the Applicant's position on the need for the development.

LOCATION OF THE PROPOSED DEVELOPMENT

- 1.3.2. The location of the Proposed Development is shown in Environmental Statement (ES) Figure 1 [[APP-047](#)] (extract shown in Figure 1.1 below) and on the Location Plan [[APP-013](#)].
- 1.3.3. The Proposed Development site lies largely within the administrative area of Crawley Borough Council (CBC). Small parts of the site lie within the administrative areas of Mole Valley District Council (MVDC) to the north-west, Reigate and Banstead Borough Council (RBBC) to the north and Tandridge District Council (TDC) to the north-east. The majority of the site is within the administrative area of West Sussex County Council (WSSCC), with small parts in the north being located in the administrative area of Surrey County Council (SCC).
- 1.3.4. The Proposed Development site is within proximity to several other local authorities:
- Kent County Council (KCC) to the east/ north-east;
 - East Sussex County Council (ESCC) to the east/ south-east;
 - Horsham District Council (HDC) to the south-west;
 - Mid Sussex District Council (MSDC) to the south-east;
 - Wealden District Council (WDC) to the south-east; and
 - Sevenoaks District Council (SDC) to the east/ north-east.

Figure 1.11: Location Plan – Order Limits Shown in Red Outline



1.3.5. Chapter 8 of the ES [[APP-033](#)] provides a detailed description of the surrounding area. In summary, the characteristics of the surrounding area are:

- a smooth and gently undulating landform with occasional rounded low hills which interrupt an otherwise low-lying landscape;
- occasional higher hills, such as the Low Weald hills to the west of Gatwick Airport;
- a rising in the landform of the High Weald National Landscape to the south-east of the airport;
- the large settlement of Crawley, which lies immediately to the south of Gatwick, and the settlement of Horley, which lies immediately to the north-east of Gatwick; and
- the smaller settlements of Hookwood, and Charlwood, which lie to the north and west of Gatwick respectively.

1.3.6. The Design and Access Statement (DAS) [[AS-154](#)] provides a description of the existing Gatwick Airport site. In summary, and as can be seen in Figure 1.2 below (extract from the DAS), the site is characterised by its own distinctive and well-defined urban townscape, including:

- flat and open land within the Proposed Development site, occupied by runways, taxiways, stands, surface car parking, and mown grassland;
- the North and South Terminal clusters, which provide the main built form;
- several large aircraft hangars, a cargo hall, hotels, multi-storey car parks, and control towers;
- the M23 spur, which forms the main road transport route into the airport from the east, linking the M23 to the South Terminal and the A23 to the North Terminal and surrounding settlements; and
- rail infrastructure situated immediately to the east of the Gatwick Airport site.

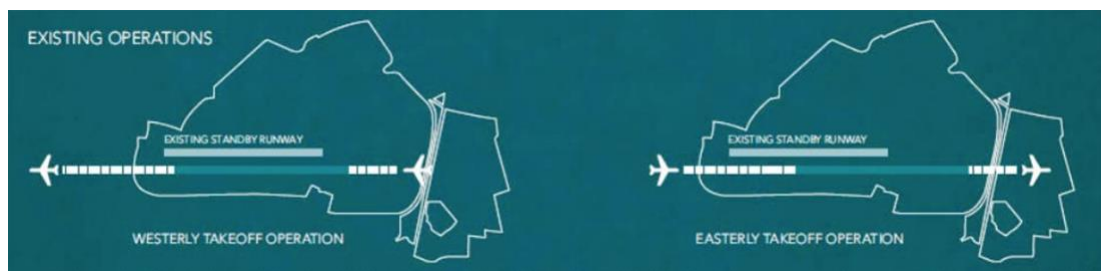
Figure 1.22: Aerial View of the Existing Site Looking South-West



EXISTING RUNWAY OPERATION

- 1.3.7. The existing operation of the airport is described in detail in ES Chapter 4: Existing Site and Operation [APP-029]. The airport is served by a single main runway and two terminals: North Terminal and South Terminal. The existing northern runway is only used when the main runway is unavailable. When not in use as a runway, the existing northern runway is used as a parallel taxiway for the main runway.
- 1.3.8. The main runway is used in a westerly or easterly direction depending on the direction of the wind as shown in Figure 1.3 [APP-250]. Due to the prevailing wind conditions, the runway is used in the westerly direction for approximately 75% of the time in a typical year.

Figure 1.33: Existing Runway Operations

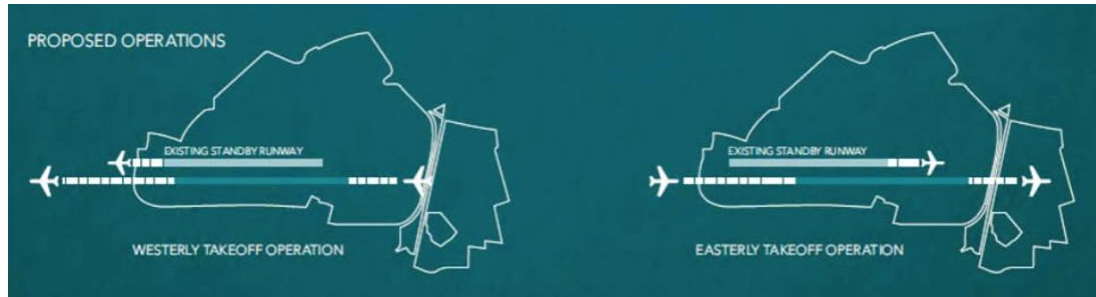


DESCRIPTION OF THE PROPOSED DEVELOPMENT

- 1.3.9. The Proposed Development, as described in the application form [APP-002], involves alterations to the existing northern runway which, together with the lifting of the current restrictions on its use, would enable dual runway operations.
- 1.3.10. Dual runway operations would mean the following changes to runway operations, as shown in Figure 1.4 [APP-250]:
- all arriving flights would use the existing main runway;

- departing flights would be shared between the existing main runway and the northern runway, with the northern runway being used mainly for smaller aircraft; and
- there would be controlled dependency between the two runways to enable safe crossing of the northern runway by arrival flights.

Figure 1.44: Proposed Runway Operations



1.3.11. In addition to the amendments to the existing northern runway, the Proposed Development includes corresponding enhancements to the taxiway system and parking stands to accommodate an increase in air transport movements. Further detail on the description of the Proposed Development is provided in Chapter 5 of the ES [APP-030], which was subsequently updated at Deadline (D) 9 to reflect proposed project changes [REP9-026].

1.3.12. Other components of the Proposed Development would enable the increased airfield capacity to be accessed by passengers through additional processing capability and improved airport access. These other components include airport support facilities, works to the north and south terminals, surface access works, hotels, offices and car parking.

1.3.13. The Proposed Development works comprise the following Work Numbers (Nos.) [AS-004]:

Airfield Works

- Work No. 1 – Works to reposition the northern runway 12 metres to the north;
- Work No. 2 – Works to construct a runway access track between the repositioned northern runway and the main runway, running east to west;
- Work No. 3 – Works to convert three existing aircraft stands to overnight parking/ remote aircraft stands;
- Work No. 4 – Works relating to the runways and taxiways;
- Work No. 5 – Works to the Aircraft Holding Area (Charlie Box);
- Work No. 6 – Works to construct a new pier (Pier 7);
- Work No. 7 – Works to construct the Oscar Area;

Airport Support Facilities

- Work No. 8 – Works to remove the airside support facilities;
- Work No. 9 – Works to construct the replacement Central Area Recycling Enclosure (CARE) facility;
- Work No. 10 – Works to construct the replacement motor transport facilities;
- Work No. 11 – Works to construct the replacement grounds maintenance facilities;
- Work No. 12 – Works to construct the replacement airfield surface transport facilities;
- Work No. 13 – Works to construct the replacement Rendezvous Point North;
- Work No. 14 – Works to remove and construct the replacement fire training ground;

Work No. 15 – Works to construct the satellite airport fire service facility;
Work No. 16 – Works to construct a new aircraft hangar;
Work No. 17 – Works to relocate the Hangar 7 support structures;
Work No. 18 – Works to remove and replace the western noise mitigation bund;
Work No. 19 – Works to construct pumping station 2a;
Work No. 20 – Works to realign Larkins Road;

Terminal Works

Work No. 22 – Works associated with the North Terminal building;
Work No. 23 – Works associated with the South Terminal building;
Work No. 24 – Works to upgrade the North Terminal forecourt;
Work No. 25 – Works to upgrade the South Terminal forecourt;

Hotels, Offices and Car Parking

Work No. 26 – Works to construct a hotel north of multi-storey car park 3;
Work No. 27 – Works to construct a hotel on the car rental site;
Work No. 28 – Works associated with the Car Park H Site;
Work No. 29 – Works to convert the existing Destination Place office into a hotel;
Work No. 30 – Works to construct Car Park Y;
Work No. 31 – Works associated with Car Park X;
Work No. 32 – Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure;
Work No. 33 – Works associated with the existing Purple Parking car park;
Work No. 34 – Works to remove Car Park B South, Car Park B North, and deliver replacement open space;

Surface Access Works

Work No. 35 – Works associated with the South Terminal Junction improvements;
Work No. 36 – Works associated with the North Terminal Junction improvements;
Work No. 37 – Work associated with the Longbridge Roundabout Junction improvements;

Miscellaneous

Work No. 38 – Works to construct the habitat enhancement area and flood compensation area at Museum Field;
Work No. 39 – Works associated with the River Mole;
Work No. 40 – Works associated with land to the north east of Longbridge Roundabout;
Work No. 41 – Works to create an ecological area at Pentagon Field;
Work No. 42 – Works to establish a habitat enhancement area along Perimeter Road East and Perimeter Road South, and works to construct a weir and a fish pass; and
Work No. 43 – Works to construct water treatment works.

1.3.14. There were subsequent additions to the Work Nos. in Schedule 1 of the draft Development Consent Order (dDCO) proposed by the Applicant and Interested Parties (IPs) in the Examination. These are discussed in the relevant chapters of this Report.

1.3.15. The illustrative layout is shown on the following pages in Figures 1.5 and 1.6 (extracts from the DAS [AS-154]).

Figure 1.55: Illustrative Plan Layout of Proposed Development

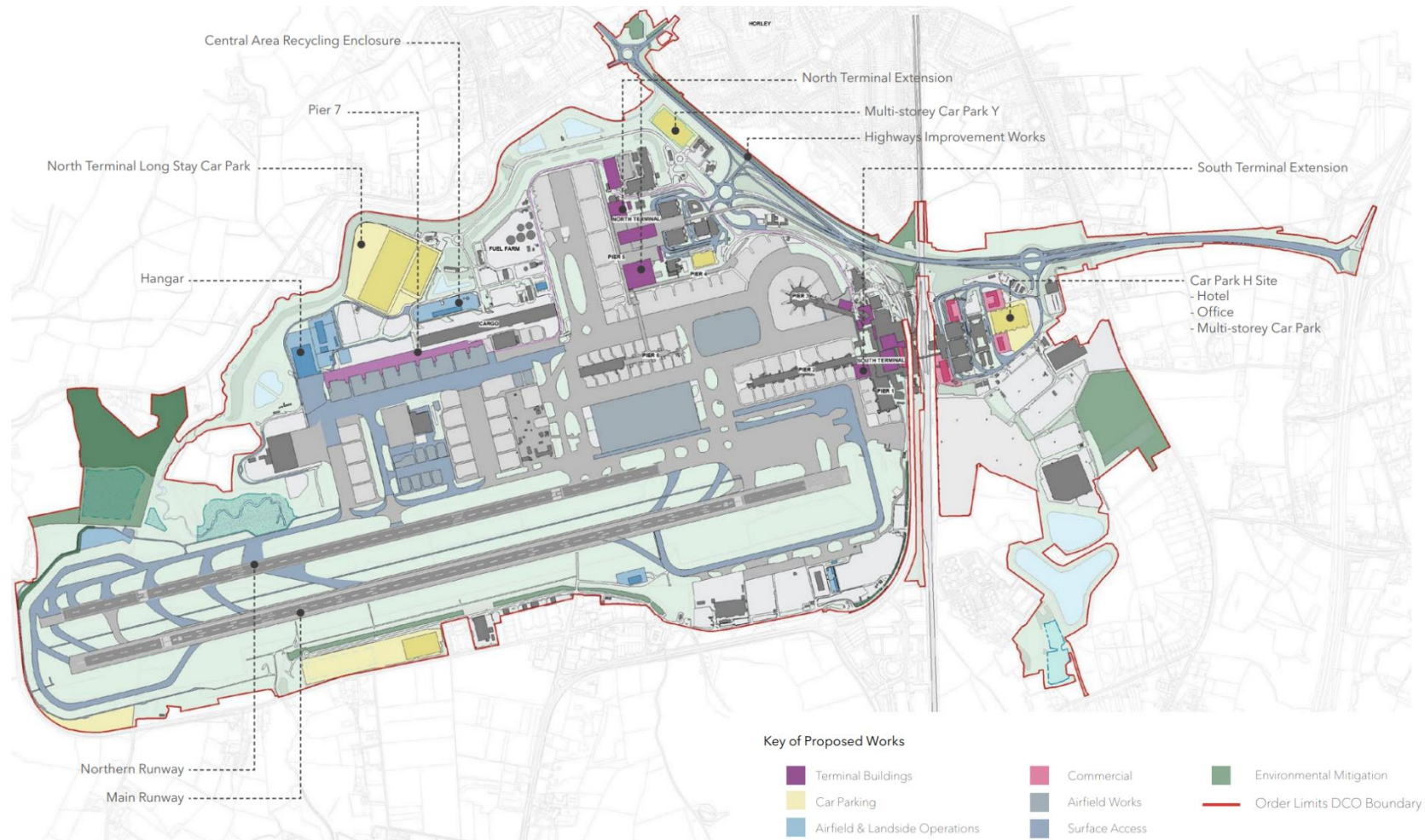
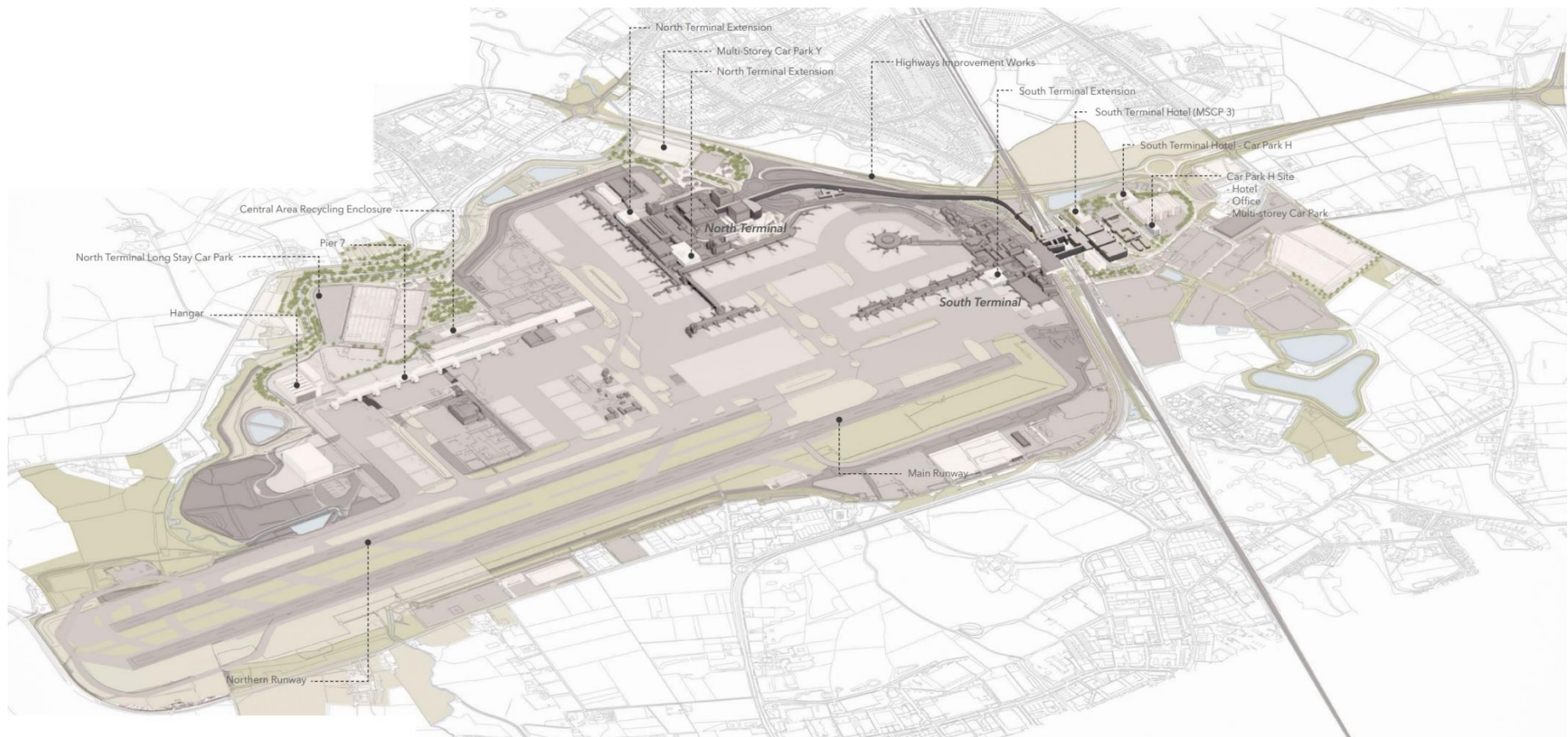


Figure 1.66: Indicative Illustration of Key Components of the Proposed Development



RELEVANT PLANNING HISTORY

- 1.3.16. Gatwick Airport was constructed in 1930 as the Surrey Aero Club, a small flyers club, and in 1935, was licensed as a public aerodrome. A railway station and the Beehive Terminal were added in the same year, and in 1936, the airport was officially opened. In 1950, Gatwick Airport was designated as London's second passenger airport, and in 1956, a substantial renovation was carried out. The renovated airport was officially opened by Queen Elizabeth II in 1958.
- 1.3.17. From the 1970s to the 2000s, Gatwick Airport was developed and expanded. This included the extension of the main runway in the early 1970s, the construction of the north terminal in the 1980s, and a further extension to the main runway in 1998. In the early 2000s the north terminal and the south terminal were significantly upgraded, followed by the extension of the baggage reclaim hall and the construction of Pier 6. In 2016, Pier 1 at the south terminal was rebuilt.
- 1.3.18. Planning permission was granted for the northern runway in 1979, with Condition 3 providing that it could not be used simultaneously with the main runway. A legal agreement with WSCC also precluded the simultaneous use of both runways. However, this agreement expired in 2019.
- 1.3.19. The Gatwick Airport site has an extensive planning history, with approximately 1,300 planning records listed on the CBC public planning register. The relevant recent planning history and planning permissions relating to Gatwick Airport and its surrounds are set out in more detail in Appendix A of the Planning Statement [APP-246] and subsequently updated at D7 [REP7-056] in response to the Joint West Sussex Local Impact Report (LIR) [REP1-068] and Appendix C (Planning History) of the Joint West Sussex LIR [REP1-069] which identified a number of planning permissions in relation to land at Gatwick Airport and their associated planning conditions.
- 1.3.20. The Joint Local Authorities (JLAs) (refer to paragraph 1.4.2 to 1.4.5 of this Report for the parties that make up the JLAs) maintained at D8 [REP8-126] that the planning history set out in the updated Planning Statement Appendix A [REP7-056] was still not comprehensive, listing just some of the airport planning history and only as far back as 2014. The JLAs also stated that it does not reflect the evidence provided in the Joint West Sussex LIR [REP1-069] which provided a much larger number of planning records relating to planning applications within the DCO limits.
- 1.3.21. As set out in ES Chapter 20 (Cumulative Effects) [para 20.4.17, APP-045], the Applicant undertook a search of relevant planning history for major development within 10 kilometres (km) of the Order Limits including NSIPs, Transport and Works Act Orders, Hybrid Bills, Major Applications and Local Development Plan allocations. In addition, large housing developments were identified to the west and east in areas that extend outwards from the 10 km area (around 5 km each). Other developments located outside of the search radius were considered on a case-by-case basis as to whether they are likely to result in cumulative effects.

FUTURE GROWTH

- 1.3.22. Gatwick Airport grew from serving 31 million passengers per annum (mppa) in 2009 to more than 46mppa in 2019. Following the Covid pandemic the Applicant is confident that passenger and airline demand at Gatwick will return to previous levels over the course of the next few years and then continue to grow thereafter (ES Chapter 5: Project Description [para 1.3.1, REP9-026]).

- 1.3.23. The Applicant has indicated that several consented or permitted developments that are planned or under construction are intended to proceed in the absence of the Proposed Development. These include developments at the airfield that the Applicant believes would lead to a forecast throughput of 67.2mppa by 2047 without the Proposed Development. With the Proposed Development, it is anticipated that by 2047 airport throughput would increase to approximately 80.2mppa. This represents an increase of approximately 13mppa by 2047 (ES Chapter 5: Project Description (para 1.3.4, REP9-026]).
- 1.3.24. Chapter 3 introduces the main planning issues which underpin the consideration of detailed Examination matters including how the application is assessed in terms of relevant policies. Issues surrounding the levels of growth which are achievable both without the Proposed Development, and as a result of it, were fundamental to our consideration of the application. They are considered in depth in Section 4.3 of Chapter 4. Chapter 4 addresses the need for the Proposed Development which also sets the context for the individual planning issues addressed in Chapters 5 to 18.
- 1.3.25. While concerns regarding airspace change were raised by a number of IPs during the Examination, this matter is covered by a separate process and based on separate legislation. Nevertheless, it is further addressed in Section 4.4 of this Report.

1.4. PRE-EXAMINATION

THE PERSONS INVOLVED

- 1.4.1. The persons involved in the Examination were:
- Persons who were entitled to be IPs because they had made a Relevant Representation (RR) or were a statutory party who requested to become an IP; and
 - Affected Persons (APs) who were affected by a compulsory acquisition (CA) and/ or temporary possession (TP) proposal made as part of the application and objected to it at any stage in the Examination.

LOCAL AUTHORITIES

- 1.4.2. There were different groupings of the local authorities used in the Examination for the purposes of making joint submissions as follows:
- Legal Partnership Authorities (LePAs);
 - JLAS;
 - Joint West Sussex Local Authorities (JWSLAs); and
 - Joint Surrey Councils (JSCs).
- 1.4.3. The LePAs are comprised of the following host and neighbouring Authorities who were jointly represented for the purposes of the Examination: CBC; HDC; MSDC; WSCC; RBBC; SCC; and ESCC.
- 1.4.4. The LePAs included MVDC for some parts of the Examination (namely, those aspects relating to the legal agreement entered into between the Applicant and any of the LePAs).
- 1.4.5. The JLAS comprise the local authorities that form the LePAs in addition to the following Authorities: MVDC; TDC; and KCC.

1.4.6. The JWSLAs consisted of the following authorities: CBC; HDC; MSDC; and WSCC.

1.4.7. The JSCs consisted of the following authorities: MVDC; RBBC; SCC; and TDC.

RELEVANT REPRESENTATIONS

1.4.8. On 5 September 2023, the Applicant submitted a notice under s56 [OD-001] of the PA2008 that the deadline for submission of RRs was 29 October 2023.

1.4.9. On 29 October 2023, the final day on which RRs could be submitted, the Inspectorate received reports that users had encountered problems accessing the Registration and RR Form and that several parties had made submissions via the Inspectorate's Project email inbox instead.

1.4.10. The issue was rectified, and the Inspectorate advised the Applicant through s51 advice [OD-002] on 6 November 2023 that the deadline for RRs to be received should be extended. The deadline for the receipt of RRs by the Inspectorate was extended to 19 November 2023 [OD-003].

1.4.11. There were also three parties identified that should have been but had not been notified by the Applicant under s56 due to a technical error (listed in Schedule 1 of the certificate of compliance with s56 [OD-004]) for whom the deadline for submission of RR was 11 December 2023.

1.4.12. In total 4813 RRs were received by the Inspectorate. Due to the number of RRs and to assist navigation of the EL, the RRs are recorded in a separate [RR library](#). Analysis of the RRs can be found in Section 3.2 of this Report.

1.5. THE EXAMINATION

PROCEDURAL DECISIONS

1.5.1. The Procedural Decisions (PDs) taken by the ExA are recorded in the Examination Library referenced [PD-]. They detail the ExA's decisions relating to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development.

START OF THE EXAMINATION

1.5.2. The Preliminary Meeting (PM) took place on 27 February 2024 [EV3-001]. The ExA's PDs and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-011], dated 8 March 2024.

1.5.3. The Examination began on 27 February 2024 and concluded on 27 August 2024. The principal components of and events around the Examination can be seen in the [Examination Timetable](#) and are summarised below.

1.5.4. Four parties requested to join the Examination. The ExA decided that the four parties were within Category 3 of s102B of the PA2008. Therefore, the ExA issued PDs [PD-014, PD-015, PD-016 and PD-017] notifying the parties that they had become IPs under s102(1)(ab) of PA2008. No parties requested to leave the Examination.

STATEMENTS OF COMMON GROUND

- 1.5.5. By the end of the Examination, the following bodies had concluded and signed Statements of Common Ground (SoCG) with the Applicant:
- CBC [REP9-066];
 - ESCC [REP9-068];
 - HDC [REP9-070];
 - KCC [REP9-072];
 - MSDC [REP9-074];
 - MVDC [REP9-076];
 - RBBC [REP9-078];
 - SCC [REP9-080];
 - TDC [REP9-082];
 - WSCC [REP9-084];
 - Civil Aviation Authority (CAA) [REP9-086];
 - Environment Agency (EA) [REP10-015];
 - Historic England (HE) [REP1-035];
 - National Highways (NH) [REP10-017];
 - Natural England (NE) [REP9-090];
 - Network Rail (NR) [REP9-092];
 - JLAs (capacity and operations) [REP9-096];
 - JLAs (forecasting and need) [REP9-098]; and
 - National Air Traffic Services (NATS) (En Route) Plc [REP9-099].
- 1.5.6. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this Report.
- 1.5.7. The SoCG with Thames Water Utilities Limited (TWUL) [REP9-094] remained unsigned at the end of the Examination. The weight afforded to the unsigned SoCG is considered in the relevant sections of this Report.

WRITTEN QUESTIONS, SITE INSPECTIONS AND HEARINGS

- 1.5.8. The ExA asked two rounds of written questions (ExQ1 [PD-012] and ExQ2 [PD-021]) and made seven requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 [PD-013, PD-018, PD-023, PD-025, PD-027, PD-029 and PD-030].
- 1.5.9. The ExA carried out five Unaccompanied Site Inspections (USIs) [EV1-001, EV16-001, EV18-001, EV21-001 and EV22-001] and an Accompanied Site Inspection (ASI) [EV1-003].
- 1.5.10. Nine Issue Specific Hearings (ISH) were held:
- ISH1 [EV6-001 to EV6-003];
 - ISH2 [EV7-001 and EV7-002];
 - ISH3 [EV8-001 and EV8-002];
 - ISH4 [EV9-001, EV9-002];
 - ISH5 [EV10-001 and EV10-002];
 - ISH6 [EV12-001 to EV12-004];
 - ISH7 [EV13-001 to EV13-004];
 - ISH8 [EV17-002 to EV17-005 and EV17-010 to EV17-013]; and
 - ISH9 [EV20-003, EV20-005, EV20-007, EV20-009, EV20-011 and EV20-013].

- 1.5.11. Two Compulsory Acquisition Hearings (CAH) were held: CAH1 [EV14-001 and EV14-002] and CAH2 [EV19-003 and EV19-005].
- 1.5.12. Three Open Floor Hearings (OFH) were held:
- OFH1 [EV4-001 to EV4-004];
 - OFH2 [EV5-001]; and
 - OFH3 [EV15-001 to EV15-003].

1.6. CHANGES TO THE APPLICATION

- 1.6.1. Changes to the application documents, including the wording of the draft Development Consent Order (dDCO), were made during the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.
- 1.6.2. The Applicant's changes to the application documents, together with any additional information submitted, are detailed in the Navigation Document submitted at D10 [REP10-002]. This provides a guide to all documents submitted as part of the application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the Examination.
- 1.6.3. The ExA requested through second written questions (ExQ2) at ExQ2.GEN.2.11 [PD-021] that the Applicant provide a consolidated ES incorporating all the various amendments to the ES throughout the Examination. The final version of this document was submitted at D10 [REP10-020] as a reference document providing a list of all documentation associated with the ES and other associated documentation, and the appropriate EL references.

FIRST CHANGE REQUEST

- 1.6.4. The Applicant submitted a formal change request on 13 February 2024. Table A2 in Appendix A of this Report sets out the documents comprising the change request.
- 1.6.5. The Change Application Report [AS-139] details the proposed changes in Table 1. Three changes were proposed for which the Applicant carried out a non-statutory consultation exercise. In summary the proposed changes were:
- Project Change 1, an extension to the design parameters for the north terminal international departure lounge proposed southern extension;
 - Project Change 2, a reduction in height of the proposed replacement Central Area Recycling Enclosure (CARE) facility and change in the purpose of the CARE facility; and
 - Project Change 3, a revision to the proposed water treatment works.
- 1.6.6. We agreed with the Applicant that the proposed changes were non-material and could be accepted into the Examination. The proposed changes were not considered, individually or cumulatively, to lead to the Proposed Development being different in nature or substance to that which was originally applied for in July 2023.
- 1.6.7. In the Rule 8 Letter [PD-011], the ExA therefore included a PD to accept the proposed changes into the Examination.

SECOND CHANGE REQUEST

- 1.6.8. The Applicant submitted a second formal change request on 26 June 2024. Table A2 in Appendix A of this Report sets out the documents comprising the change request.
- 1.6.9. The Second Change Application Report [REP6-072] details the proposed changes. One change was proposed, Project Change 4, for which the Applicant carried out a non-statutory consultation exercise. The proposed change was for the provision of on-airport Wastewater Treatment Works (WTW).
- 1.6.10. We agreed with the Applicant that the proposed changes were non-material and could be accepted into the Examination. The proposed changes were not considered, individually or cumulatively, to lead to the Proposed Development being different in nature or substance to that which was originally applied for in July 2023.
- 1.6.11. The ExA therefore issued a PD [PD-023] on 10 July 2024 to accept the proposed change request into the Examination.

THIRD CHANGE REQUEST

- 1.6.12. The Applicant submitted a third formal change request on 15 July 2024. Table A2 in Appendix A of this Report sets out the documents comprising the change request.
- 1.6.13. The Third Change Application Report [REP7-097] details the proposed changes. One change was proposed, Project Change 5, for which the Applicant carried out a non-statutory consultation exercise. The proposed change was for a revision to the Order Limits at the Holiday Inn to facilitate a temporary access point and associated works.
- 1.6.14. We agreed with the Applicant that the proposed changes were non-material and could be accepted into the Examination. The proposed changes were not considered, individually or cumulatively, to lead to the Proposed Development being different in nature or substance to that which was originally applied for in July 2023.
- 1.6.15. As the documentation in support of Project Change 5 was submitted at D6 with a further submission at D8, the ExA considered that there was sufficient time within the Examination for IPs and APs to comment on the proposed change and for it to be properly and fairly examined.
- 1.6.16. The ExA therefore issued a PD [PD-027] on 14 August 2024 to accept the proposed change request into the Examination.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the Examination, the Applicant had entered into agreements and obligations of the following types:

- an agreement under s106 of the Town and Country Planning Act 1990; and
- framework agreements.

Section 106 Agreement

- 1.7.2. At D10 [REP10-019] a finalised s106 agreement was submitted. This was dated 22 August 2024 and signed by the Applicant, WSCC, CBC, RBBC and SCC. The agreement related to:

- Air Quality;
- Noise;
- Surface Access;
- London Gatwick Community Fund;
- Employment, Skills and Business;
- Biodiversity and Landscaping;
- Health;
- Homelessness Prevention Fund; and
- Council Resources.

Framework Agreements

- 1.7.3. NH confirm in its Closing Statement [REP9-160] that it had entered into a Framework Agreement with the Applicant. NR also confirmed in its D10 submission [REP10-031] that it had entered into a Framework Agreement with the Applicant and the withdrawal of its objection to the application.

1.8. OTHER CONSENTS

- 1.8.1. In addition to the consents required under the PA2008, the Applicant would require others to construct, operate and maintain the Proposed Development. These are set out by the Applicant in Other Consents and Licences [APP-264], subsequently updated at D8 [REP8-092]. These consents are largely dependent on the finalisation of design and construction details which are not sufficiently developed at this stage and these consents therefore cannot be included within the DCO. The ExA is not aware of any reason why any relevant necessary consents and licences would not subsequently be granted.

1.9. STRUCTURE OF THIS REPORT

- 1.9.1. The structure of the remainder of this Report is as follows:

- [Chapter 2](#) summarises the key legislation and policy context.
- [Chapter 3](#) identifies the main planning issues.
- **Chapters 4 - 18** set out the findings and conclusions in relation to the planning issues that arose from the application and during the Examination as listed below.
 - [Chapter 4](#) – The Need for the Proposed Development
 - [Chapter 5](#) - Traffic and Transport.
 - [Chapter 6](#) - Noise and Vibration.
 - [Chapter 7](#) - Air Quality.
 - [Chapter 8](#) - Greenhouse Gas Emissions.
 - [Chapter 9](#) - Climate Change.
 - [Chapter 10](#) - Socio Economics.
 - [Chapter 11](#) - Water Environment.
 - [Chapter 12](#) - Landscape and Visual Effects.
 - [Chapter 13](#) - Historic Environment.
 - [Chapter 14](#) - Ecology.
 - [Chapter 15](#) - Health and Wellbeing
 - [Chapter 16](#) - Land Use and Recreation.
 - [Chapter 17](#) - Other Matters.
 - [Chapter 18](#) - Good Design.
- [Chapter 19](#) sets out the findings and conclusions of the Habitats Regulations Assessment (HRA).

- [Chapter 20](#) sets out the balance of planning considerations arising from Chapters 2 to 19 in the light of important and relevant factual, legal and policy considerations.
- [Chapter 21](#) sets out the ExA's examination of land rights and related matters.
- [Chapter 22](#) considers the implications of the matters arising from the preceding chapters, other control documents and the s106 agreement for the Development Consent Order.
- [Chapter 23](#) summarises all relevant considerations and sets out the ExA's recommendation to the SoS for Transport.

1.9.2. This Report is supported by the following appendices which are contained in a separate volume:

- **Appendix A** – The Examination/ Reference Tables.
- **Appendix B** – List of Abbreviations.
- **Appendix C** – The Examination Library
- **Appendix D** – Reference Tables for the DCO
- **Appendix E** – The Recommended DCO

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

- 2.1.1. This Chapter identifies the key legislation, policy and Local Impact Reports (LIR) that the Examining Authority (ExA) has had regard to in its findings and recommendations to the Secretary of State (SoS) for Transport.

2.2. KEY LEGISLATION

PLANNING ACT 2008

- 2.2.1. The Planning Act 2008 (PA2008) provides a different basis for decision-making for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) has effect from that where no NPS has effect.
- 2.2.2. Section (s)104(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application submitted in accordance with the PA2008. In summary, the matters set out in s104(2) include any relevant NPS, any LIR, any matters prescribed in relation to the development, and any other matters the SoS thinks are both important and relevant to the decision.
- 2.2.3. Section 104(3) of the PA2008 requires the SoS to decide an application for development consent in accordance with any relevant NPS that has effect in relation to the application, subject to the exceptions in s104(4) to (8) as follows:
- Deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations.
 - Deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her or him by or under any enactment.
 - Deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment.
 - The adverse impact of the proposed development would outweigh its benefits.
 - Any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.
- 2.2.4. Section 105(2) of the PA2008 sets out the matters to which the SoS must have regard when making its decision if s104 does not apply because there is no NPS in effect relating to the specific type of development, the subject of the application. These comprise any LIR, any matters prescribed in relation to the development, and any other matters the SoS thinks are both important and relevant to the decision.
- 2.2.5. Section 115(1)(b) of the PA2008 provides that a Development Consent Order (DCO) can include consent for “*associated development*” which is development that is not part of but is associated with the NSIP.
- 2.2.6. [Chapter 3](#) of this Report (Section 3.5: ‘Policy Considerations’) sets out our findings and conclusions in relation to the applicability of s104, s105 and s115 to the application.

OTHER LEGISLATION

- 2.2.7. A full list of relevant primary and secondary legislation, including but not limited to duties arising under the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in Table A5 of Appendix A of this

Report. All applicable legislation has been considered by the ExA as required and the findings and recommendations in this Report are framed so as to identify and enable the SoS to discharge all applicable statutory considerations or duties.

2.3. NATIONAL POLICY STATEMENTS

2.3.1. NPSs set out Government policy on different types of national infrastructure development. With regard to the purposes of the PA2008, the ExA considers that the Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England (June 2018) (ANPS) and the National Policy Statement for National Networks (NNNPS) are relevant to the application. The extent to which these NPSs apply to the Proposed Development is discussed further in [Chapter 3](#) within Section 3.5: 'Policy Considerations'.

2.3.2. This Report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying the approach set out in the PA2008. The purpose and broad content of these NPSs is summarised here. Table A3 in Appendix A provides further detail on the NPSs of relevance to the Proposed Development.

AIRPORTS NATIONAL POLICY STATEMENT

2.3.3. The ANPS sets out the Government's policy on the need for new airport capacity in the south-east of England and particular considerations relevant to a development consent application to which the ANPS relates.

2.3.4. The ANPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport. It does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway (para 1.41). However, it also states that it will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the south-east of England (para 1.12).

NATIONAL POLICY STATEMENT FOR NATIONAL NETWORKS

2.3.5. The 2015 NNNPS sets out the national policy for highways-related development. It provides planning policy for promoters of NSIPs on the road and rail networks, and the basis for examination by examining authorities and decisions by the SoS for Transport.

2.3.6. A revised NNNPS was designated on 24 May 2024. The 2024 NNNPS has effect for any applications for development consent accepted for examination after the designation of the revised NNNPS. Since the Gatwick Airport Northern Runway Project application was accepted for examination prior to 24 May 2024, the 2015 NNNPS has effect for this application. Nevertheless, as recognised in paragraph 1.17 of the 2024 NNNPS any NPS which is designated but does not have effect is potentially capable of being important and relevant in the decision-making process. All references in this Report to the NNNPS should be understood to relate to the 2015 NNNPS unless clearly stated otherwise.

2.3.7. To understand the Proposed Development's compliance with the 2024 NNNPS, the Applicant has provided a comparison of the 2024 NNNPS with the 2015 NNNPS and ANPS policy in response to the ExA's first written questions (ExQ1) ExQ1.GEN.1.33 [REP3-092].

2.4. OTHER GOVERNMENT POLICIES AND STRATEGIES

2.4.1. Other relevant Government policy has been taken into account by the ExA, including the following:

- The National Planning Policy Framework (2023).
- The Aviation Policy Framework (APF) (2013).
- Beyond the Horizon: The Future of UK Aviation: Making Best Use of Existing Runways (2018).
- Flightpath to the Future: A Strategic Framework for the Aviation Sector (2022).
- Jet Zero Strategy: delivering net zero aviation by 2050 (2022).
- Net Zero Strategy: Build Back Greener (2021).

2.4.2. Table A4 in Appendix A provides further detail on the relevance of each of the above policies to the Proposed Development. These policies are also discussed in more detail in [Chapter 4](#) of this Report 'The Need for the Proposed Development' and other chapters as appropriate.

2.5. LOCAL IMPACT REPORTS

2.5.1. Five LIRs were submitted into the Examination at Deadline (D) 1, and these were:

- Joint West Sussex Local Authorities (JWSLAs) [REP1-068];
- Joint Surrey Councils (JSCs) [REP1-097]
- East Sussex County Council (ESCC) [REP1-070];
- Kent County Council (KCC) [REP1-079]; and
- Sevenoaks District Council (SDC) [REP1-095].

2.5.2. The LIRs describe the impacts arising from the Proposed Development by topic area. Table A6 in Appendix A sets out a list of the topic areas covered in each LIR.

2.5.3. Amongst other matters, LIRs identify local policies (including those from the Development Plan) which are capable of being important and relevant considerations under s104(2)(d) and s105(2)(c) of the PA2008. Table A7 in Appendix A lists the individual local policies that are relevant to the Proposed Development.

2.5.4. No overall conclusion was drawn on the Proposed Development as a whole in the JWSLAs and ESCC LIRs.

2.5.5. The JSCs state in the introduction to its LIR (para 1.8, [REP1-097]) that the JSCs *“recognise the importance of Gatwick Airport’s role in supporting employment for Surrey residents and generating investment in Surrey’s economy. However, the JSCs are firmly of the view that any economic and strategic benefits do not override other considerations. It is not currently demonstrated to the JSCs’ satisfaction that any benefits would be sufficient to outweigh the adverse impacts of the NRP [Northern Runway Project]”*.

2.5.6. KCC concludes its LIR [REP1-079] by stating that *“Whilst an increase in aircraft movements would enhance the economic benefits of the airport (through business travel, tourism, trade and increased employment both on site and in the supply chain), routine use of the northern runway would have an adverse impact on local communities on the ground, would not further the purpose of the National Landscapes and would further contribute towards Climate Change.”*

- 2.5.7. SDC states in the conclusion of its LIR (para 5.2, [REP1-095]) that *“The District Council is supportive of the project in principle, particularly in relation to the significant economic benefits the expansion will bring to our thriving tourism industry. However, we remain concerned about the negative social and environmental impacts that our communities living in the south of the District will have to endure.”*
- 2.5.8. The issues raised in the LIRs are considered in further detail in the relevant planning issues topic chapters of this Report (Chapters 4 - 18).

2.6. ENVIRONMENTAL IMPACT ASSESSMENT

- 2.6.1. On 16 August 2019 the Applicant provided a notification under Regulation 8(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) of its intention to provide an Environmental Statement (ES) [PD-002]. In accordance with Regulation 6(2)(a) of the EIA Regulations, the Planning Inspectorate (the Inspectorate) determined that the Proposed Development was EIA development.
- 2.6.2. On 2 September 2019, the Applicant submitted a Scoping Report [APP-092] to the SoS under Regulation 10 of the EIA Regulations in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion).
- 2.6.3. On 11 October 2019 the Inspectorate provided a Scoping Opinion [APP-095].
- 2.6.4. Overall, the ExA considers that the ES, as supplemented with additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.
- 2.6.5. The ExA considered that changes to the documentation, comprising the ES during the Examination, together with the change requests (see section 1.6 of this Report) did not individually or cumulatively undermine the scope and assessment of the ES. Chapters 4 - 18 of this Report summarise the environmental effects for each planning issue.

2.7. HABITATS REGULATIONS ASSESSMENT

- 2.7.1. The SoS is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 2.7.2. The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and hence is subject to a Habitats Regulations Assessment (HRA). As is the convention and to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in Chapter 19 of this Report.

2.8. TRANSBOUNDARY EFFECTS

- 2.8.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken on behalf of the SoS following the Applicant’s request for an EIA Scoping Opinion. The Scoping Report concluded that the Proposed Development is not likely to have significant effects on another European Economic Area (EEA)

State and proposes that transboundary effects do not need to be considered within the ES.

- 2.8.2. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. The ExA is satisfied, on the basis of the information provided by the Applicant and Natural England's agreement that the correct sites had been considered in the HRA [RR-3223], that the Proposed Development would not have an LSE on European sites in any EEA States.

3. IDENTIFYING THE MAIN PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. Chapter 3 introduces the Examining Authority's (ExA) findings and conclusions on the planning issues. It reviews the Initial Assessment of Principal Issues (IAPI) and explains how the issues identified have been managed.

3.2. RELEVANT REPRESENTATIONS

3.2.1. As stated in Section 1.4 of this Report, a total of 4813 Relevant Representations (RRs) were received by the Planning Inspectorate (the Inspectorate). A majority of RRs objected to the Proposed Development and the most prevalent issues (raised by 500 Interested Parties (IPs) or more) in the RRs by broad topic area were as follows (numbers are approximate):

- Noise and vibration raised in 3050 RRs.
- Traffic and transport raised in 1820 RRs.
- Climate change and greenhouse gas (GHG) emissions raised in 1780 RRs.
- Air quality raised in 1750 RRs.
- Socioeconomics raised in 900 RRs.
- The case for the development raised in 570 RRs.
- Health and wellbeing raised in 550 RRs.

3.2.2. Approximately 715 RRs expressed support for the Proposed Development.

3.3. INITIAL ASSESSMENT OF PRINCIPAL ISSUES

3.3.1. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the ExA prepared an IAPI arising from the application in advance of the Preliminary Meeting (PM). The IAPI was based on the application documents and submitted RRs. The list of issues relates to all phases of the Proposed Development. The IAPI was considered at the PM and no other principal issues were identified either during the PM or during the Examination. The IAPI can be found in Annex C of the Rule 6 letter [PD-009]. The issues identified alphabetically in the IAPI are as follows:

- Air Quality.
- Case for the Proposed Development.
- Climate Change and GHG Emissions.
- Compulsory Acquisition and Temporary Possession of Land and Rights.
- Draft Development Consent Order, Planning Obligations, Agreements and Management Plans.
- Ecology.
- Historic Environment.
- Landscape and Visual Effects.
- Noise and Vibration.
- Social, Economic and Land Use Considerations.
- Traffic and Transportation.
- Water Environment.

3.4. THE PLANNING ISSUES IN THIS REPORT

3.4.1. The ExA considers that the issues raised by IPs were broadly in line with the IAPI and were subject to written and oral questioning during the Examination. These are the issues that the ExA has used to structure most of the following chapters in this

Report (Chapters 4 - 18) which address each issue in turn. To facilitate efficient consideration of the relationships between certain issues and to avoid repetition in analysis, the ExA has varied the order of its consideration of issues arising from the IAPI and subdivided some of the issues into separate chapters. It should also be noted that the IAPI is a high-level framework. The ExA has nevertheless had regard to all important and relevant matters arising from submissions from IPs and has reported on these, if required, within each chapter below.

- 3.4.2. The following section of this Chapter addresses the main policy considerations for the Gatwick Airport Northern Runway Project application. [Chapter 4](#) addresses the matters of principle including, the need for the Proposed Development, the future baseline and consideration of alternatives. The following chapters (5 - 18) of this Report set out the ExA's findings and conclusions on the planning issues by topic area, refer to paragraph 1.9.1 of this Report for the list of topic areas covered by these chapters.
- 3.4.3. In each chapter, the ExA will provide a summary of the application as made, then report on the main issues for each topic. Findings and conclusions will then be drawn for each topic and whether the effects carry a little weight, moderate weight, great weight, or very great weight for or against the making of the Development Consent Order (DCO).

3.5. POLICY CONSIDERATIONS

The Planning Act 2008 and National Policy Statements

- 3.5.1. The matter of whether the Proposed Development should be assessed against section (s) 104 or s105 of the PA2008 was discussed at Issue Specific Hearing (ISH) 1 [EV6-001, EV6-002 and EV6-003]. A summary of the Applicant's case on this matter can be found in section 2 of The Applicant's Response to Actions - ISH 1: The Case for the Proposed Development [REP1-062] and their Written Summary of Oral Submissions from the same Hearing [REP1-056]. A summary of the Legal Partnership Authorities (LePAs) case on this matter can largely be found in the Joint West Sussex LIR (paras 6.1 - 6.10, [REP1-068]), supplemented by their response to the first written questions (ExQ1) of the ExA (ExQ1.CS.1.27) [PD-012] and summarised in their closing statement [REP9-151].
- 3.5.2. There is no dispute between the parties that the Airports National Policy Statement (ANPS) does not have effect in relation to the Proposed Development, but that the NPS is important and relevant. Paragraph 1.41 of the ANPS states that:
- “The Airports NPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway, and proposals for new terminal capacity located between the Northwest Runway at Heathrow Airport and the existing Northern Runway and reconfiguration of terminal facilities between the two existing runways at Heathrow Airport. Nevertheless, the Secretary of State considers that the contents of the Airports NPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the South East of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need.”*
- 3.5.3. There is also no dispute between the parties that the highways related development proposed as part of the overall scheme falls within the remit of the National Networks National Policy Statement 2015 (NNNPS).

- 3.5.4. On the face of it therefore part of the Proposed Development falls to be considered under s104 of the PA2008, and part falls within s105. During the Examination there was discussion around the practical implications of this.
- 3.5.5. The Applicant's position [REP1-056, REP1-062, APP-245, REP3-078, REP4-031, REP6-095 and REP9-112] can be summarised as follows:
- a. Section 104 PA2008 applies to the highway elements of the scheme; s105 applies to the airport aspects of the Proposed Development.
 - b. The ExA on the NSIP Case for EFW² applied s104 and s105 to different elements of an energy from waste plant. In a Judicial Review into the case³ it was held that s105 should be interpreted as applying to those discrete elements of an application which comprise proposals for development for which no NPS has effect. Section 105 should be interpreted as applying to free-standing parts of the application to the extent that s104 does not apply in relation to the application.
 - c. The EFW Case was different as the separate elements of the proposal were distinct, whereas the Proposed Development is indivisible (the highway and airfield works are interrelated). However, the Applicant considers that the conclusion of Dove, J in the EFW Case - that s104 and s105 of the PA2008 should apply to components of a single application depending on whether an NPS was in effect for any component - are capable of a more general application.
 - d. The main purpose of the Proposed Development is to enable the expansion of airport operations. The highway works are proposed to facilitate this expansion and are secondary to it, so it is appropriate to start with the application of s105. Applying s104 to the overall scheme would focus the consideration of policy on an NPS which was only in effect in relation to the highways-related development, but not in effect in relation to the airport-related development as the primary element of the application. The NNNPS and s104 are in effect for the highways elements of the scheme.
 - e. The ANPS, whilst focused on the development of a new runway at Heathrow, included policy tests based on highway works anticipated to be part of that proposal (works to the M25).
 - f. While formal determination of the highways elements of the Proposed Development must take place against the requirements of s104, it is appropriate to use the policy framework of the ANPS as the primary framework against which the Proposed Development as a whole should be tested (and the policy principles within the NNNPS broadly reflect those which are applied under the ANPS).
- 3.5.6. The position of the LePAs [REP1-068, REP1-097, REP3-135, REP5-094, REP7-107 and REP9-151] to this matter can be summarised as:
- a. Words and passages in a statute derive their meaning from their context and must be read in the context of the section, as a whole, and that where the same words are used in an Act they have the same meaning.
 - b. Section 104(3) of the PA2008 states that the "*Secretary of State must decide the application in accordance with any relevant national policy statement...*" and s104(1) states that s104 applies to an application if a NPS has effect in relation to development of the description to which the application relates.

² <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010083>

³ EFW Group Limited v Secretary of State for Business, Energy and Industrial Strategy [2021] EWHC 2697 (Admin)

- c. Where an application proposes development, only part of which falls within the scope of matters addressed by a NPS which has effect for some of the development, that application is still one which satisfies s104(1) of the PA2008 and thus s104 applies to it.
- d. Section 105 of the PA2008 only applies to an application if s104 does not apply.
- e. The description of the development includes highway related development – this qualifies as an NSIP and has a NPS in effect (NNNPS). Therefore, the application satisfies s104 of the PA2008.
- f. A wider question applies to circumstances where the NPS does not give guidance on or address large parts of the application that is the subject of the application, as is the situation here. The airport related development contained in the Proposed Development is not capable of being regarded as in accordance with the NNNPS because the policies of that NPS do not have relevance or application to that part of the development. In such circumstances the SoS should decide the application having regard to the matters set out in s104(2) of the PA2008.
- g. The EFW Case was different, in that there were two separate developments on adjacent sites, whereas the Proposed Development is not divisible.
- h. The NNNPS is not required to be applied to the whole of the development. Through s104(3) of the PA2008 it is possible to apply the NNNPS to the highway aspects of the development, without distorting the meaning of the NNNPS so as to apply it to matters that it clearly does not address. The ANPS can be considered as an important and relevant matter under s104(2)(d) of the PA2008.
- i. There is no need for the SoS to make a definitive interpretation on the correct approach to s104 and s105 to make a lawful decision on this application. It would be open to the SoS to conclude that the matter was open to different legal interpretation.

3.5.7. For similar reasons to the LePAs, Communities Against Gatwick Noise and Emissions (CAGNE) also consider that the Proposed Development should be considered under s104 [REP1-137].

ExA’s Conclusion on the Planning Act 2008 and National Policy Statements

3.5.8. We tend towards the view of the Applicant on this matter. The primary focus of the Proposed Development is the airfield works; the highway elements are required solely as a result of the Proposed Development and while the works themselves are indivisible the highway elements are purely required to facilitate the Proposed Development.

3.5.9. We acknowledge the view of the LePAs and understand the logic of their submissions. However, the DCO application is for an airport based scheme; it is called the Gatwick Airport Northern Runway Project and the application form [APP-002] description primarily concerns the airport elements of the Proposed Development, with the highway elements of the scheme clearly being present to facilitate that development:

“The application seeks powers to enable dual runway operations at Gatwick Airport through altering the existing northern runway, lifting restrictions on the northern runway’s use and delivering the upgrades or additional facilities and infrastructure required to increase the passenger throughput capacity of the airport. This includes substantial upgrade works to certain surface access routes which lead to the airport.”

3.5.10. In the EFW Case, Dove, J said:

“Proposals for development within the statutory framework’s decision-making process for which there is no applicable NPS having effect are to be decided pursuant to the framework provided by section 105 of the 2008 Act. Such an approach clearly reflects the language of section 104(1) which refers to an NPS having effect “in relation to development of the description to which the application relates”. It is less consistent with a literal reading of section 105(1), but when that text is placed in the context of the purpose and structure of the legislation as a whole, it is clear that section 105(1) should be interpreted as applying to those discrete elements of an application which comprise proposals for development for which no NPS which has effect.”

3.5.11. We are of the view that the starting point in policy terms for the Proposed Development should therefore be the ANPS, and as this does not have effect in relation to the Proposed Development, the application falls to be considered primarily under s105 of the PA2008. The ANPS will be both an important and relevant consideration in the determination of the application, particularly as the airport lies within the south-east of England and is considered to be a London airport.

3.5.12. The ANPS is therefore the primary source of policy against which the Proposed Development as a whole should be tested. The NNNPS (2015) will also be an important and relevant consideration and will necessarily inform the formal determination of the highways elements of the proposal. This approach to the policy framework also solves the initial problem raised by the LePAs in their point (f) above.

3.5.13. Section 104 of the PA2008 will apply to the highways elements of the Proposed Development (and the traffic and transport chapter of this Report, as well as the highway element sections in other chapters) but the ANPS is the primary source of policy against which the Proposed Development as a whole should be tested in the view of the ExA.

3.5.14. While the LePAs reference to the Net Zero Teesside project is noted [REP5-094], as well as the EFW Case, such an approach also follows the precedent set by other NSIPs, for instance the proposal for Sizewell C which contains multiple projects which individually satisfied the requirements to be NSIPs in their own right, but the scheme as a whole was considered under s105 of the PA2008. We also note that the Net Zero Teesside project was the subject of a direction from the SoS under s35 of the PA2008, and that this direction confirmed that the relevant NPS had effect for that case (contrary to a similar direction made for the EFW Case). Such a direction does not exist in this situation.

3.5.15. It is also noted that the LePAs are of the view that whichever interpretation is adopted would not materially affect the outcome of the decision. The Applicant also accepts that whichever interpretation is adopted would not affect the outcome of the decision on the Proposed Development. The Applicant’s D6 submission on s104 and s105 of the PA2008 [REP6-095] stated:

“the Applicant is prepared to accept that the conclusions each party reaches on whether consent should be granted would not differ, whether the application was determined under section 104 and 105, or whether the application was determined under the alternative approaches to section 104”.

3.5.16. The LePAs stated [REP9-151]:

“It does not depend on whether the application is considered only under s.104 PA 2008 (which the JLAs consider is the correct legal position) or under the ‘hybrid’ approach advocated by the Applicant, whereby the highway-related development is considered under s.104 PA 2008 and the airport-related development is considered under s.105 PA 2008. For that reason, the JLAs consider that there is no need for the SoS to make a definitive interpretation on the correct approach to s.104 and s.105 PA 2008 in order to make a lawful decision in this case. It would be open to the SoS to conclude that the matter was open to different legal interpretations, and that in the circumstances, the SoS would consider the application under both the JLAs’ approach of applying only s.104 PA 2008 and under the Applicant’s ‘hybrid’ approach of applying both s.104 and s.105 PA 2008. Either way, the JLAs do not consider that the ultimate outcome would be changed.”

3.5.17. The ExA agrees with these views.

The Planning Act 2008 Section 115 and Associated Development

3.5.18. Section 115 of the PA2008 provides that, in addition to the development for which development consent is required, consent may also be granted for associated development, and that “*Associated development*” means development which is associated with the development.

3.5.19. Guidance on associated development⁴ states that it is for the SoS to decide on a case-by-case basis whether or not development should be treated as associated development. In making this decision the SoS will take into account the following: associated development should support the construction or operation of the principal development, or help address its impacts; associated development should be subordinate to the principal development; development should not be treated as associated if it is only necessary as a source of additional revenue – it can cross-subsidise but this should not be its sole purpose; and associated development should be proportionate to the nature and scale of the principal development.

3.5.20. The Planning Statement [APP-245] notes that the airfield elements and the highways works of the Proposed Development fall within the description of a nationally significant infrastructure project under s14 (i) and (h) and 22(1)(b), (3) and (4)(b) and s23(1)(b), (4) and (5)(a) of the PA2008 (as set out in paragraphs 1.1.4 and 1.1.5 above). Associated development within the Proposed Development comprises Work Numbers (Nos.) 26 to 34 and 38 to 44 of the draft Development Consent Order (dDCO) [REP10-004]. In summary these works consist of:

- four hotels (Work Nos. 26, 27, 28 (a), and 29);
- an office building (Work No. 28(b));
- multi storey, decked, surface and reconfiguration of car parks (Work Nos. 28 (c), 30 (b), 31 (e), 32, 33 and 34);
- habitat enhancement, flood compensation, works to the River Mole, planting and open space works (Work Nos. 38 to 42); and
- water and wastewater treatment works and associated works (Work Nos. 43 and 44).

3.5.21. Concern was raised by, amongst others, Crawley Borough Council (CBC), Horsham District Council (HDC), Mid Sussex District Council (MSDC) and West Sussex County Council (WSCC) in various documents, including their Joint Local Impact

⁴ Planning Act 2008: Guidance on associated development applications for major infrastructure projects, Department for Communities and Local Government, April 2013.

Report (LIR) [REP1-069], and by Reigate and Banstead District Council (RBDC) [REP5-049] over the inclusion of the hotels and the office within the dDCO. Queries raised included issues over the provision of additional on-airport parking at the hotels. The Councils' view was that any such parking should be operational parking only so as to support the Applicant's Surface Access Commitments. This was seen as particularly important as the hotels will, in due course, exist as commercial operations operated by other parties and so there is no reason that they should be exempt from the Local Planning Authorities' wider policies in relation to car parking merely by virtue of their conception under the DCO for authorising consent [REP2-040].

- 3.5.22. In response, the Applicant stated that hotel accommodation on-site supports the operation of the airport in providing necessary accommodation for passengers and helps to address the airport's impacts by reducing the need for transport between accommodation and the airport. It noted that the hotels are subordinate to the airport, do not solely cross-subsidise the principal development and are proportionate (as an example, [REP5-037]) and that they consider it is open to the SoS to conclude that the hotels are "*associated development*", and that such a conclusion is clearly justified [AS-060].
- 3.5.23. In response to the ExA's second written questions (ExQ2.DCO.2.17, [PD-021]) the Applicant confirmed that there would be no car parking provision for the proposed hotels, except for disabled users and servicing [REP7-081]. Following this, CBC confirmed that they agreed that, with this stipulation, the hotels could be considered as associated development [REP9-066].
- 3.5.24. The ExA's ExQ2 asked if the proposed office as part of the Proposed Development would be occupied by users not relating to the airport (ExQ2.SE.2.10 [PD-021]). The Applicant confirmed [REP7-091] that the proposed offices would be used for airport related business purposes. While they could not confirm that it would be exclusively used for employees of the Applicant otherwise displaced from the current office-space at Destinations Place (Work No. 29), it would be used and made-available for wider airport-related business use (eg airlines or other companies associated with activities at Gatwick). To secure this, Requirement (R) 34 of the dDCO was introduced to ensure that the new office must only be occupied by an entity 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. This commitment was welcomed by the LePAs [REP8-161].

ExA's Conclusion on the Planning Act 2008 Section 115 and Associated Development

- 3.5.25. The works relating to habitat enhancement, flood compensation, works to the River Mole, planting and open space works, and the water/ wastewater treatment works and associated works are provided to address the impacts of the Proposed Development and are associated development. The proposed new car parks and reconfiguration of existing car parks are subordinate to the principal development, would cross-subsidise the development but are not only necessary for this purpose. The car parks are, on the face of it, also proportionate although further discussion over the number of car parking spaces can be found in [Chapter 5](#), Traffic and Transport.
- 3.5.26. Hotels are considered in more detail in [Chapter 4](#), the Need for the Proposed Development in reference to the Future Baseline case. However, with regard to the Proposed Development, the ExA considers that the hotels would be subordinate to

the principal development and would cross-subsidise the development but are not only necessary for this purpose. Hotels are a common feature for airports, providing accommodation for travellers on a flight the following day or on arrival on a late flight, as well as accommodation for flight crew. The ExA considers that, given the proposed number of passengers the Proposed Development would cater for, an additional four hotels are proportionate to the nature and scale of the principal development. With regard to car parking at the hotels, R37 of the dDCO includes a limit on the overall number of car parking spaces. The ExA therefore agrees with CBC and the Applicant that the hotels constitute associated development.

- 3.5.27. Work No. 28(b), an office, would support the operation of the principal development, be subordinate to the development and would be proportionate to the nature and scale of the principal development. R34 would ensure that the offices were occupied by relevant aviation based occupiers and this building would therefore constitute associated development.
- 3.5.28. We conclude therefore that the development applied for consists solely of development for which development consent is required, or associated development, and that the associated development is reasonably associated with the Proposed Development. The Proposed Development accords with s115 of the PA2008.

4. THE PRINCIPLE OF THE PROPOSED DEVELOPMENT AND THE NEED CASE

4.1. INTRODUCTION

4.1.1. A large section of the Examination was taken up with the case for the Proposed Development. This topic covered a range of issues and was considered solely at Issue Specific Hearing (ISH) 1 and partially at ISH7 and ISH9. A number of questions were also asked as part of the Examining Authority's (ExA) first and second written questions (ExQ1 [PD-012]) (ExQ2 [PD-021]). Questions of relevance to the topic were also asked under Rule 17 of the Examination Procedure Rules⁵ in May [PD-018], July [PD-025], and August [PD-027] 2024.

4.1.2. The range of issues encompasses the following topics:

- The policy background and compliance or otherwise;
- The need case itself, including:
 - National forecasts and airport and system constraints;
 - The Applicant's demand forecasts; and
 - The baseline case and the Proposed Development case.
- The capacity and capability of:
 - The airport to accommodate the baseline and the Proposed Development case;
 - The surrounding surface access network to accommodate both scenarios; and
 - Airspace and considerations regarding this.

4.2. POLICY BACKGROUND

4.2.1. As noted in Chapter 2, The Airports National Policy Statement (ANPS) (June 2018) sets out the Government's policy on the need for new airport capacity in the south-east of England. The ANPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport.

4.2.2. The ANPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway (para 1.41); but notes that the contents of the ANPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the south-east of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme (the Heathrow Northwest runway) is the most appropriate means of meeting that need.

4.2.3. The Airports Commission preceded the ANPS. In 2013 the Commission's interim report concluded that there was a need for one additional runway to be in operation in the south-east of England by 2030, and the final report of the Commission concluded that this should be the proposed Northwest runway at Heathrow, as this "offered the greatest strategic and environmental benefits" over the other shortlisted

⁵ Infrastructure Planning (Examination Procedure) Rules 2010

schemes. These schemes included a second runway at Gatwick, to be located to the south of the existing runway.

- 4.2.4. Paragraph 1.39 of the ANPS confirms that the Government is supportive of airports beyond Heathrow making best use of their existing runways, while recognising that the development of airports can have positive and negative effects. Paragraph 1.42 states that airports wishing to make more intensive use of existing runways will still need to submit an application for planning permission or development consent to the relevant authority, which should be judged on the application's individual merits. Paragraph 1.39 also notes that such merits should take account of all relevant considerations, particularly economic and environmental impacts. Paragraph 1.42 confirms that the Government accepts it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.
- 4.2.5. The Aviation Policy Framework (APF)⁶ contains Government policy on wider aviation issues not covered by the ANPS (paragraph 1.38 ANPS). Paragraph 1.60 of the APF states that in the short term ('to around 2020') the Government's aviation strategy is based on making the best use of capacity to improve performance, resilience and the passenger experience. In the longer term the objective remains to ensure that the UK's air links continue to make it one of the best-connected countries in the world (paragraph 1.110); the Airports Commission was established to investigate how to achieve this objective.
- 4.2.6. Beyond the Horizon, Making best use of existing runways⁷ (MBU) confirms that the Government is supportive of airports beyond Heathrow making best use of their existing runways in similar text in paragraph 1.29 to paragraph 1.42 of the ANPS, although stating that this policy leaves it up to local rather than national government to consider each case on its merits. Paragraph 1.28 notes that the policy (of making best use of existing runways) would only lead to a relatively small increase in Air Transport Movements (ATMs) of some 2% without Heathrow expansion.
- 4.2.7. Flightpath to the Future (2022) contains a ten-point plan for the future of UK Aviation, including to support growth in airport capacity where it is justified and to ensure that capacity is used in a way that delivers for the UK (point 3). Footnotes 5, 13 and 22 confirm that the ANPS and MBU are the most up to date policy on planning for new airport development.
- 4.2.8. The Jet Zero strategy (JZS)⁸ sets out commitments for the UK aviation sector to reach net zero greenhouse gas emissions by 2050. It contains a five-year delivery plan (chapter 4) which states that the Government "*will support airport growth where it can be delivered within our environmental obligations*", stating that:

"The Government's existing policy framework for airport planning in England – the Airports National Policy Statement (ANPS) and Beyond the horizon, the future of UK aviation: Making best use of existing runways (MBU) – have full effect, as a material consideration in decision making on applications for planning permission. Our analysis shows that it is possible to achieve our goals without the need to restrict people's freedom to fly".

⁶ Aviation Policy Framework, March 2013

⁷ Beyond the horizon: The future of UK aviation Making best use of existing runways, June 2018.

⁸ Jet Zero Strategy: Delivering net zero aviation by 2050, July 2022.

ISSUES ARISING DURING THE EXAMINATION

4.2.9. During the Examination discussion centred around the following topics within this category:

- Does the Proposed Development fall within the acknowledged policy support for MBU?
- Is it necessary to demonstrate need?

MAKING BEST USE OF EXISTING RUNWAYS

Whether the Proposed Development Constitute an 'Existing Runway'

4.2.10. The existing northern runway at Gatwick is used solely when the primary southern runway is unavailable – whether this is because of an emergency or if this runway is undergoing maintenance. In 2019 the northern runway was used by 2,800 flights [REP1-062]. The runway is certified by the Civil Aviation Authority (CAA).

4.2.11. The northern runway has a width of 45m, with 7.5m shoulders on either side (adding up to a total of 60m). Appendix B to [REP1-062] shows the construction required to the runway for the Proposed Development. In essence this means the southern 12m of existing pavement (made up of the existing 7.5m shoulder and 4.5m of the runway) would be dug up and returned to grass, while the northern shoulder would be dug up and re-laid as runway pavement (along with an additional 4.5m constructed) with a new 7.5m shoulder provided. This would amount to a new 12m of additional pavement where none exists at present, or an additional 19.5m of construction when counting the digging up of the existing shoulder.

4.2.12. The figures below show an indicative cross section of the works (Figure 4.1, taken from [REP1-062]) and a plan view of the runway works (Figure 4.2, taken from [AS-136] - where the pink denotes the proposed runway and the red speckled shading the previous southern extent of the runway).

Figure 4.17: Northern Runway Construction Indicative Cross Section

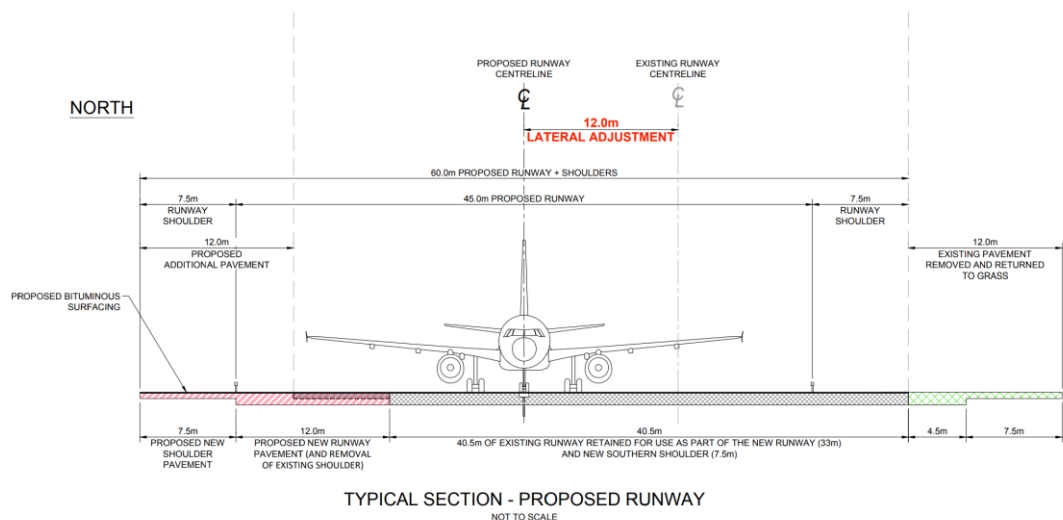
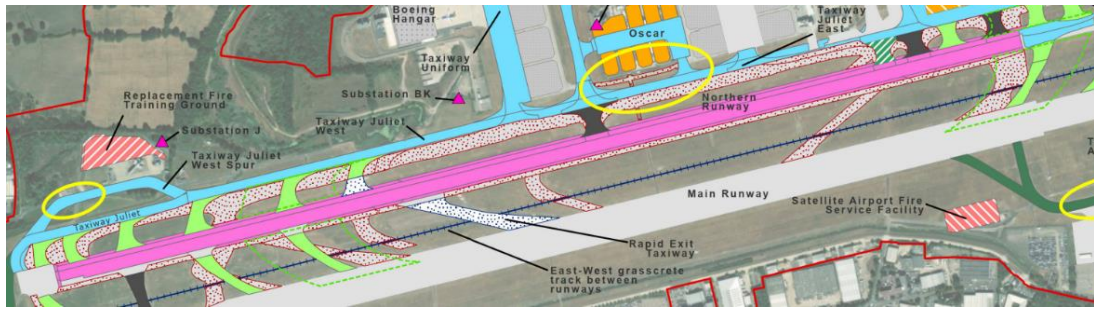


Figure 4.28: Plan View of the Proposed Runway Works



- 4.2.13. The Proposed Development, also known as the Northern Runway Project (NRP), would allow the northern runway to be used on a full-time basis, and concurrently with the southern runway, which it is not possible to do so at present due to the spacing between the runways (as set out by various UK (EU) Regulations and International Civil Aviation manuals and procedures [REP1-062]). The northern runway would be limited to departures only and up to Code 'C' sized aircraft. The operations are shown in Figure 4.3 below, taken from the Needs Case [APP-250].

Figure 4.39: Existing and Proposed Runway Operations



- 4.2.14. A range of comments were made by Interested Parties (IPs) of the view that the Proposed Development constituted a new runway, and that consequently the Proposed Development could not comply with the policy of making the best use of an existing runway. For example, in their written representation Communities Against Gatwick Noise Emissions (CAGNE) [REP1-137] stated that:

“the NRP scheme is not seeking to make best use of an existing runway, but to create a new, additional, runway. Accordingly, it gets no policy support from MBU”.

- 4.2.15. CAGNE noted that Gatwick is a single runway airport and that the Proposed Development would enable dual runway operations, transforming “Gatwick from a single runway airport into a dual runway airport”

- 4.2.16. This is re-affirmed in CAGNE’s closing statement [REP9-223], where it stated that the proposal would introduce a new operational runway, and that:

“The NRP proposes replacing the existing emergency/standby runway and creating a new main runway to the north. The emergency/standby runway will need to be completely repositioned, such that its centreline is moved to the north by 12 metres, and resurfaced; the resulting runway will be a new runway.”

and

“These works – including excavation, reprofiling of the land, moving buried utilities, new drainage, new lighting, and upfilling the ground – cannot be described as anything other than a creation of a new runway in a different position and with different physical attributes to the existing standby runway.”

4.2.17. CAGNE noted that such works would also require other development to facilitate the dual runway operations, including the reconfiguration of taxiways, a new pier and stands.

4.2.18. In response to CAGNE, the Applicant noted that the scale of development is entirely different from that which would be necessary to construct a full-length southern runway at Gatwick or a new runway at Heathrow [REP3-074], and stated that:

“it cannot sensibly be concluded that works which allow for the repositioning, only 12m to the north, of the centre line of what is plainly an existing runway remove the runway from the scope of an “existing runway” into being as “an entirely new runway”

4.2.19. The Legal Partnership Authorities (LePAs) noted within their Local Impact Report (LIR) [REP1-068] that there was some ambiguity in the scope of MBU and whether it applies only to making best use of ‘existing runways’ or more widely to ‘existing infrastructure’ and that there was some uncertainty about the nature and extent of the physical works as part of the Proposed Development to reposition and resurface the emergency runway. At Deadline (D) 2 [REP2-081] the LePAs noted issues around drainage, as witnessed on the Accompanied Site Inspection [EV1-003], and raised concerns that a new drainage channel would need to be cut into the original runway. At D3 the Applicant noted [REP3-106] that this would not be necessary as the existing runway drainage falls to the north – so the drainage channel which would need to be removed as part of the removal of the shoulder would then be replaced at the new northern extent of the proposed runway works.

4.2.20. At ISH1 [EV6-006 to EV6-007] the Applicant considered that the proposed works to the Northern Runway would fall within the remit of permitted development rights⁹ [APP1-062], using this in part as justification of their view of the minor nature of works proposed to the northern runway. It noted that permitted development rights included the carrying out on operational land by a relevant airport operator or its agent of development in connection with the provision of services and facilities at a relevant airport unless it relates to *“the construction or extension of a runway”*, stating that the widening on one side and reduction on the other does not extend the runway or amount to the construction of a new runway. CAGNE [REP3-113] disagreed with this proposition as they considered that the Proposed Development would involve the construction or extension of a runway, actions which are not permitted development.

4.2.21. CAGNE was also of the view that the Applicant had stated during the Examination that the terms ‘existing runways’ and ‘existing infrastructure’ were used

⁹ Class F of Part 8 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 concerns development at an Airport.

interchangeably in Government policy, in a manner which assisted their proposal. However, CAGNE noted [REP1-137], [REP9-223] that 'infrastructure' was used in the Airports Commission's final report and the only use of it in the ANPS was in this context (when referring to the Airports Commission), using 'runways' in the remainder of the ANPS, including in the policy itself and the title of MBU.

- 4.2.22. The Applicant considers [REP3-074] that both the ANPS and MBU (at paragraphs 1.1, 1.2, 1.3 and 1.4) refer directly to the need to make more intensive use of existing infrastructure or existing airport capacity and that in any event if there is a distinction to be drawn (between infrastructure and runways) then it is a distinction without effect because if an airport makes better use of its airport, or of its capacity or infrastructure the intended consequence would be for increased or better use of its runway(s).

ExA's Conclusion on Whether the Proposed Development Constitute an 'Existing Runway'

- 4.2.23. The ExA notes and agrees with CAGNE that Gatwick is commonly referred to as a single runway airport, and that the effect of the Proposed Development would be to allow dual runway operations at the airport (as described in the application form) [APP-002]. However, it is also clear that the airport has two runways at present.

- 4.2.24. The northern runway was used for 2,800 flights in 2019. Although shorter than the southern runway, it is fully CAA certified and, as evidenced by its usage when the southern runway is closed (for whatever reason) can be used fully for aircraft arriving at or departing from the airport. It is clear to our minds therefore that the airport at present has two runways but that for operational and safety reasons both runways cannot be used at the same time. The main runway is in use primarily for historical and practical reasons (being a longer runway) but equally the northern runway comes into use when the main runway is not available.

- 4.2.25. The works to the northern runway to make it usable at the same time as the southern runway (albeit only for departures of aircraft up to Code C) involve moving the runway 12m to the north. In detail the works involve:

- The removal of a 12m strip of hardstanding on the southern side of the runway and the planting of grass;
- Reconstruction of the existing (7.5m) northern shoulder to runway standard;
- Construction of new 12m strip of hardstanding (part runway, part shoulder) to the northern side of the existing runway;
- Replacement of drainage and re-installation of airfield ground lighting; and
- Resurfacing of the repositioned northern runway. [REP1-062].

- 4.2.26. Such works are not minor and would not in the ExA's view fall within the remit of permitted development rights, as development is not permitted if it would consist of or include the construction or extension of a runway. In the ExA's view, even though the works would take place on the northern side of the runway and the overall width of the runway would not increase, the proposed works would effectively constitute the extension of the runway to the north and would not therefore be permitted development (notwithstanding issues around the EIA regulations).

- 4.2.27. However, nor would the Proposed Development create a new additional runway. It would be moving an existing runway to the north. The movement north of 12m when compared to the existing 60m of pavement would not constitute a significant movement of the runway – equalling a movement of around 20%. On a question of fact and degree the ExA does not consider that this constitutes a new runway.

- 4.2.28. Furthermore, the runway would be restricted by Requirement 19(3) of the dDCO [REP10-004] to be used for departures of aircraft only up to Code C. While the Proposed Development would result in an airport able to run dual runway operations, it would not be a two-runway airport in the same sense as, for example, Heathrow which has two runways able to run concurrently for all plane types and for arrivals and departures (subject to planning restrictions).
- 4.2.29. The attendant works necessary to reposition/ move the runway by 12m – including excavation, new drainage, new lighting, and resurfacing the runway to ensure it is correctly graded – are all contingent works of repositioning the runway. The drainage works were explained in the Examination and while they require the removal and replacement of the existing channel such works are considerably less than they would be if the current runway drained from the middle of the pavement (with channels on both sides).
- 4.2.30. Furthermore, while other works are then necessary as a result of the repositioning of the runway, such as the reconfiguration of taxiways and a new pier and stands, the ExA does not consider that this means the Proposed Development constitutes a new runway – more that they are the necessary knock on effects and required works due to the repositioning of the runway and the growth in potential traffic that this would bring.
- 4.2.31. In terms of the use of differing language relating to existing runways and infrastructure the ExA agrees that to all intents and purposes any distinction may not be entirely relevant, since an increased use of an airport’s infrastructure, its capacity, or its terminal(s), will in effect all result in an increased use of their runway (or the ability to make better use of their runway(s)). More intensive use of an existing airport will inevitably lead to increased use of runways and infrastructure, whether infrastructure is used in a non-runways sense or in a way to encompass runways too.
- 4.2.32. Taking all of the above into account the ExA is content that the Proposed Development constitutes works to an existing runway.

Scale of the Proposed Development

- 4.2.33. A theme which ran throughout the Examination concerned the potential scale of the Proposed Development and whether this facet of the Proposed Development complied with MBU policy. CAGNE stated [REP1-137] that the expectation of MBU policy is that the majority of MBU based applications would be on a relatively local level, noting that paragraph 1.28 of MBU states (within the context of overall airspace capacity):

“Given the likely increase in ATMs that could be achieved through making best use of existing runways is relatively small (2% increase in ATMs “without Heathrow expansion” scenario; 1% “with Heathrow”), we do not expect that the policy will have significant implications for our overall airspace capacity.”

- 4.2.34. The ExA’s written question ExQ1.CS.1.26 asked a similar question of the Applicant and at D3 CAGNE raised the question of Table 1 of MBU which contains a range of figures and shows the expected figures in passenger numbers at a national level for selected years, including the baseline and baseline plus best use (MBU). For ease, this is replicated below:

Figure 4.410: Table 1 of Beyond the Horizon, The Future of UK Aviation

	Baseline	Baseline + best use	LHR NWR base	LHR NWR + best use
2016	266.6	266.6	266.6	266.6
2030	313.4	314.8	342.5	341.9
2040	359.8	365.9	387.4	388.8
2050	409.5	421.3	435.3	444.2

Table 1: Terminal Passengers at UK airports, million passengers per annum

- 4.2.35. CAGNE [REP3-113] noted that the 13mppa growth predicted by the Applicant for the Proposed Development would exceed the 11.8mppa assumed to be possible nationally under MBU (for 2050).
- 4.2.36. In response [REP3-084], the Applicant considered that the APF (at paragraph 1.24) and the Airports Commission (at paragraphs 16.40-43 of their Final Report) encouraged MBU proposals of a significant scale and noted that recent modelling undertaken by the Government to inform its JZS included the Proposed Development as a capacity assumption aligned with MBU policies (Jet Zero Modelling Framework, paragraph 3.18) and that MBU applications made at other airports have involved significant operational development. The Applicant also noted that the ATM increase promoted as part of the London Luton Airport Expansion DCO in the name of MBU exceeds that promoted in the Proposed Development and that both the ANPS and MBU anticipate that some MBU applications may meet the threshold for NSIPs (an increase in capability of 10mppa).
- 4.2.37. In their ‘Response to the Actions arising from ISH1’ [REP1-062], the Applicant drew attention to a paragraph (47) in the Manston Airport decision letter, which states that:

“The MBU policy does not limit the number of MBU airport developments that might be granted and does not include a cap on any associated increase in ATMs as a result of intensifying use at MBU developments.”

ExA’s Conclusion on the Scale of the Proposed Development

- 4.2.38. Paragraph 1.28 of MBU clearly states that the likely increase in ATMs that could be achieved through MBU is “relatively small” at only 2% without London Heathrow (LHR) Northwest Runway (NWR) and 1% with. However, as CAGNE notes, this statement is made within the context of airspace capacity and the paragraph goes on to note that despite this (“however”) if there are airspace changes required as a result of MBU (via flightpath changes) that this would follow due process.
- 4.2.39. Table 1 of MBU shows the expected amount of passengers ‘generated’ by MBU at 11.8mppa in 2050 (and less with LHR NWR). For 2030 the figure is some 1.4mppa. However, it is also clear that the ANPS (paragraph 1.42) considers that airports wishing to make more intensive use of existing runways may need to submit an application for development consent, a process that is only applicable for developments of over 10mppa.

4.2.40. Planning permissions at Stansted, London City, and Manston (albeit primarily for freight traffic in the case of the latter) have been granted since the MBU policy was made, with the Stansted permission allowing for an increase of some 8mppa at that airport. Paragraph 47 of the Manston Airport decision letter, confirmed that the MBU policy does not limit the number of MBU airport developments that might be granted and does not include a cap on any associated increase in ATMs as a result of intensifying use at MBU developments is also noted in this context.

4.2.41. The ExA also notes that the modelling undertaken to inform the JZS included the Proposed Development as a capacity assumption aligned with MBU policies. Paragraph 3.18 of the Jet Zero Modelling Framework states:

“In June 2018, the government set out its policy support for airports to make best use of their existing runways in Beyond the Horizon: The future of UK aviation: making best use of existing runways (“MBU”) and a new runway at Heathrow Airport in the Airports National Policy Statement: new runway capacity and infrastructure at airports in the south-east of England (ANPS), subject to related economic and environmental considerations. In common with the Jet Zero Consultation the capacity assumptions in our modelling reflect and are aligned with these policies.”

4.2.42. The ExA is content therefore that a) MBU policy does not include a cap or restriction on the size of a proposed project, and accordingly b) the scale of the Proposed Development falls within MBU policy.

Whether it is Necessary to Demonstrate Need

4.2.43. In their D1 submission Heathrow Airport Limited (HAL) [REP1-192] stated that national policy is clear that there is a need for one new runway in the south-east of England to maintain the UK's hub status and that this need is most appropriately and effectively met by the Heathrow NWR scheme, and that, to be consistent with this policy framework, any scheme brought forward must complement but not threaten the future delivery of additional hub capacity at Heathrow through the NWR scheme. In their opinion, the Applicant must demonstrate this and show that the demand to be served at Gatwick will be additional to, or different from, the additional hub capacity to be delivered by the NWR scheme. HAL stated that they remain committed to their own long term sustainable growth in line with Government policy.

4.2.44. HAL noted that the Airports Commission had previously found that the Gatwick second runway scheme considered as part of that process (a runway to the south of the existing airport) would neither deliver the same economic benefits as a third runway at LHR nor:

“provide the same boost to the UK's overall connectivity as adding capacity at Heathrow or be as effective in maintaining the UK's position in the global aviation system in the face of competition from other major airports in Europe and the Middle East” (paragraph 13.21)

4.2.45. HAL goes on to note the final sentence of paragraph 1.41 of the ANPS, which states that:

“Nevertheless, the Secretary of State considers that the contents of the Airports NPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the south-east of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need”

- 4.2.46. HAL also notes the long-haul growth predicted in the DCO application. It stated that it will need to be proved that this long-haul traffic is point-to-point growth that is additional to, or different from, the hub demand to be served by the NWR scheme. It considers that the Applicant's core forecasts should include additional capacity that would be provided by Heathrow.
- 4.2.47. Finally, HAL notes that the Airports Commission was tasked with reporting on (a) credible long term options for meeting the UK's international connectivity needs and (b) immediate actions, consistent with the long term options, to improve the use of existing runway capacity in the next five years. It considers there to be a distinction here between MBU policy in the short term (para 2.2.15) and the NWR scheme for the long term.
- 4.2.48. Similar arguments to those made by LHR are made by others, such as, for example, CAGNE, the Gatwick Area Conservation Campaign (GACC), and Gatwick Obviously Not (GON). CAGNE [REP1-137] note that paragraph 1.42 of the ANPS means that there will not be policy support (at least in the ANPS) for a proposed airport expansion that is justified by the same need for airport capacity in the south-east of England as that which justified the NWR, and that such an expansion would be counter to ANPS policy. They note that the ANPS explains why the NWR is preferable to the previously proposed second runway at Gatwick, noting the phrase in paragraph 3.19 of the ANPS that:
- “By contrast, expansion at Gatwick Airport would not enhance, and would consequently threaten, the UK’s global aviation hub status. Gatwick Airport would largely remain a point to point airport, attracting very few transfer passengers.”*
- 4.2.49. CAGNE consider [REP1-137] that the ANPS specifically chose (and only gave national policy support to) a new runway at Heathrow; notwithstanding the fact that the disbenefits of a third runway at Heathrow were greater than those for a second runway at Gatwick, the unique advantages offered by Heathrow (notably its contribution to the UK's international “hub status”) were enough to outweigh them.
- 4.2.50. GACC [REP1-173] notes that the ANPS requires airports seeking to expand (other than LHR) to demonstrate sufficient need, additional to (or different from) that met by the provision of the NWR and consider that the Applicant has not done this, with more data and assessments required to justify the need for increased use of its existing runway above 2019 levels, without the Proposed Development.
- 4.2.51. GON [REP1-179] is of the view that the Applicant did not put forward a policy compliant needs case and that it has assumed that there will be no development at Heathrow, contrary to the ANPS. GON considers that there is not a credible needs case for the Proposed Development because the airport has substantial surplus passenger and ATM capacity without it. It notes that the Applicant projects that it can handle 67.2m passengers and 326,000 ATMs without the Proposed Development, and it is therefore currently using less than 79% of its current ATM capacity and only some 61% of current passenger capacity.
- 4.2.52. GON further notes that it took over 24 years, pre-Covid, for the airport to grow by the amount of surplus passenger capacity that currently exists and over 20 years for it to grow by the amount of ATM capacity that still exists and therefore considers that Gatwick will not utilise its existing surplus passenger capacity until the 2050s and its existing ATM capacity until the 2040s. On this basis it considered that it is very likely that there will never be a need for additional capacity at Gatwick and that the Applicant's forecasts are characterised by excessive and unsubstantiated

optimism, assuming levels of growth in the period before and after 2029 that are substantially out of line with recent pre-pandemic growth and which Gatwick has not achieved historically.

- 4.2.53. The Applicant notes [REP3-075] that it is their case that policy identifies the need both for a new runway at Heathrow and for existing airports to make the best use of their existing capacity/ runways/ infrastructure. It is also of the view that paragraph 1.42 of the ANPS when read as a whole calls on applications to be considered on their own merits against the in-principle support for MBU and that it does not set a test or requirement for any type of need to be met and that this has been confirmed in various decided cases [REP1-056], [REP3-075], such as Stansted and Manston:

“There is no requirement flowing from national aviation policy for individual planning applications for development at MBU airports, such as Stansted, to demonstrate need for their proposed development or for associated additional flights and passenger movements.” (Stansted)

“...He [the Secretary of State] also agrees that the MBU policy, which is relevant to this Application, does not require making best use developments to demonstrate a need for their proposals to intensify use of an existing runway or for any associated Air Traffic Movements (“ATMs”).” (Manston)

- 4.2.54. In response to the point concerning long term and immediate actions, the Applicant states [REP3-075], [REP5-076] that the Airports Commission’s recommendations in relation to making best use of other airports were not time limited, and that their Final Report confirmed on its final page that the need to make best use of existing infrastructure will remain. Furthermore, the Government responded to the Commission’s reports with policy, such as the ANPS, and the ANPS is supportive of airports beyond LHR making best use of their existing runways.

ExA’s Conclusion on Whether it is Necessary to Demonstrate Need

- 4.2.55. Paragraph 1.42 of the ANPS states:

“As indicated in paragraph 1.39 above, airports wishing to make more intensive use of existing runways will still need to submit an application for planning permission or development consent to the relevant authority, which should be judged on the application’s individual merits. However, in light of the findings of the Airports Commission on the need for more intensive use of existing infrastructure as described at paragraph 1.6 above, the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow. As indicated in paragraph 1.39 above, the Government’s policy on this issue will continue to be considered in the context of developing a new Aviation Strategy”.

- 4.2.56. The ExA therefore agrees that policy identifies the need both for a new runway at LHR and for existing airports to make the best use of their existing runways and infrastructure and notes the cited cases in the Stansted and Manston decisions confirming that there is not a requirement for MBU developments to demonstrate a need for their proposals.

- 4.2.57. However, it is considered that both Stansted and Manston are significantly different cases from the DCO application. Manston was a proposal for a primarily freight driven operation, based on point-to-point freight traffic for largely specialist freight

and for new integrator carriers. Stansted is an airport significantly smaller than Gatwick (in terms of passenger numbers) and is set to the northeast of London.

- 4.2.58. Gatwick is the second largest airport in the UK (by a large margin, in either direction – to the ‘first’ or the ‘third’ place airport) but is also reasonably close to LHR. In their shortlist of options for a new national runway, the Airports Commission considered two schemes at LHR and one at Gatwick. As CAGNE points out, the Commission chose the proposed NWR scheme as the best option, despite the increased environmental effects of that scheme over a new runway at Gatwick, because of the economic and connectivity benefits of that scheme and the effectiveness of maintaining the UK position in the global aviation hub system.
- 4.2.59. While the Proposed Development utilises an existing runway and is a different scheme to that considered by the Airports Commission, the scale and size of Gatwick (and that of the Proposed Development) and the proximity of Gatwick to LHR and overlapping catchments of the airports makes the proposal a different case to that of Stansted or Manston. The ExA agrees with LHR that there is a requirement for the Proposed Development to complement but not threaten the future delivery of future hub capacity at LHR through the NWR proposal. To paraphrase paragraph 1.42 of the ANPS, the ExA considers that while it is not necessary for the Applicant to demonstrate sufficient need for their proposal, it is necessary to show that the need for the Proposed Development is additional to, or different from the need that would be met by the provision of the NWR.
- 4.2.60. On a similar but related note the ExA does not consider that MBU policy is time limited or linked to immediate or short-term options only (with LHR NWR being the long-term solution) and notes that no reference to such views exist in the policy documents of the ANPS or MBU.
- 4.2.61. The ExA therefore considers that there is a requirement to demonstrate need – in the sense that the need that is required to be shown is additional to, or different from the need that would be met by the NWR scheme.

ExA’s OVERALL CONCLUSION ON POLICY CONSIDERATIONS

- 4.2.62. The ExA has concluded that the Proposed Development would involve works to an existing runway, and that the scale of the Proposed Development falls within the MBU policy (as there is no cap within this policy on the scale of schemes). However, the ExA also considers that to receive the benefit of such policy support requires that the need for the Proposed Development is shown to be additional to, or different from the need that would be met by the NWR scheme.

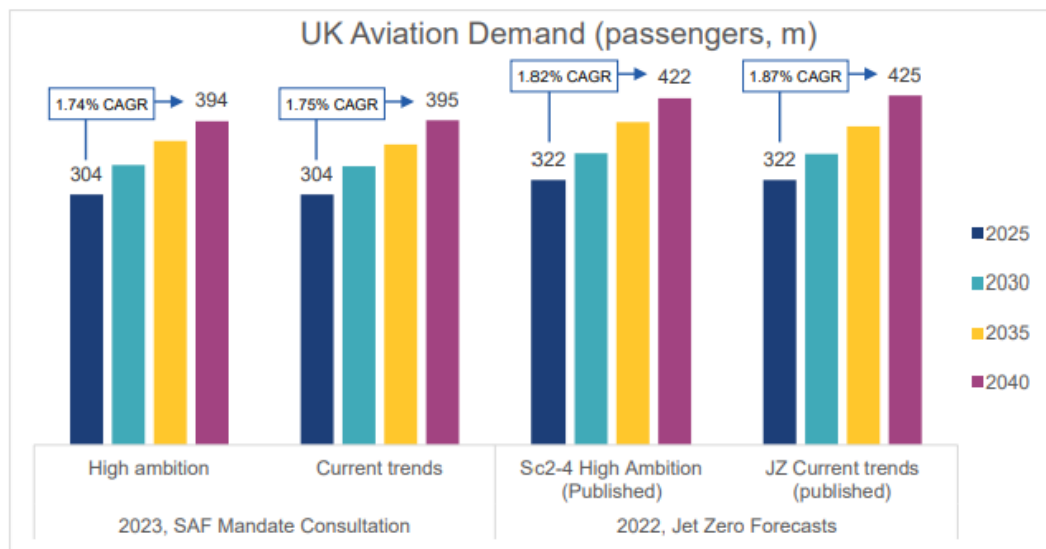
4.3. THE NEED CASE

NEED FOR GROWTH

- 4.3.1. Department for Transport (DfT) central case demand forecasts from 2017 predict growth in air passenger demand of around 1.8% per annum in the long term (2016-2050). The DfT updated these forecasts in 2022 post pandemic as part of the JZS. These figures included an increase in the cost of carbon (and the effect this may have on suppressing demand) and result in a slightly lower growth forecast rate of 1.7% per annum long term (2016-2050) and around 1.82% for the period 2025-2040. The Jet Zero forecasts included four different scenarios representing differing levels of ambition for reducing emissions [APP-250].

- 4.3.2. London and the surrounding area are served by six primary commercial airports: Heathrow, Gatwick, Stansted, Luton, London City, and Southend. London is the biggest aviation market in the world in terms of passenger numbers – in 2019 the six airports served 181 million passengers [APP-250]. The Airports Commission, as referred to above, was set up in 2012 to examine the scale and timing of any requirement for additional capacity to maintain the UK’s position as Europe’s most important aviation hub and to identify how any need for additional capacity should be met in the short, medium and long term. The results of the Commission’s work were incorporated into the ANPS.
- 4.3.3. Capacity forecasts included in the Jet Zero Modelling included the NWR, as well as the Proposed Development. The Applicant states [APP-250] that within the Jet Zero forecasts there is forecast to be an additional 42 million passengers in the London market – compared with the number of passengers served in 2019 - and that by 2040 and 2050 this increase will rise to 84mppa and 122mppa respectively, going on to state that substantial new capacity is required to serve that demand. It is of the view that a third runway at Heathrow could not be consented and constructed in time to meet the shortfall of capacity in 2030, although, depending on when the runway came online, it could contribute significantly to the projected continuing shortfall beyond the mid-2030s and into the 2040s. It notes that the London airports would have a capacity of 210mppa in 2030 without expansion and that the forecast increase in demand would be well above current planned airport capacity.
- 4.3.4. In April 2023 the DfT consulted on a new set of aviation forecasts (Consultation on Sustainable Aviation Fuels (SAF)). These assumed growth of 1.74% per annum between 2025 and 2040. The figure below (excerpt from [APP-250]) compares these forecasts with the Jet Zero ones.

Figure 4.511: Comparison of Government Aviation Demand Forecasts



- 4.3.5. The SAF figures show a lower demand in 2025, reflecting a slower recovery from Covid but details a demand for 394mppa in 2040, a growth of 40% against the baseline [APP-250]. The Applicant notes that applying this growth rate to the London system would result in an extra 70mppa by 2040 [APP-250].

ExA's Conclusion on the Need for Growth

- 4.3.6. There are long recognised aviation capacity constraints; hence why the Airports Commission was set up in 2012 and why the NWR was recommended by the Commission and supported in policy by the ANPS.
- 4.3.7. While there has been some decline in the DfT central case forecasts successively from 2017 through to the 2023 SAF figures, Government forecasts still predict significant growth in air passenger demand. The same forecasts indicate a significant increase in aviation demand in London, with a predicted 230mppa demand in 2023, some 50mppa above 2019 levels and to over 300mppa in 2050 [APP-250]. In the context of these overall levels of air passenger demand, the ExA agrees with the Applicant that the Proposed Development would deliver a reasonably modest increase in capacity to help meet this demand.

Capacity at London Airports

- 4.3.8. Due to ATM limits at Heathrow, the Applicant predicts that in the absence of the NWR, Heathrow would be able to handle another 9mppa by 2040 (to 90mppa). The NWR would grow this figure to 136mppa in 2050.
- 4.3.9. Gatwick itself predicts growth in the absence of the Proposed Development to around 67mppa to 2047. Stansted airport has a current passenger cap of 43mppa (and 274,000 ATMs). Southend airport has a passenger cap of 53,000 ATMs, equivalent to around 5mppa [APP-250].
- 4.3.10. At the close of the Examination a decision on the application to increase the passenger cap at Luton airport from 19mppa to 32mppa was awaited. In the final week of the Examination, London City airport received planning consent to expand to around 9mppa (from a previous cap of 6.5mppa).
- 4.3.11. Based on these figures and the Government forecast growth in aviation demand, the Applicant considers that even with the Proposed Development (and the additional 13mppa growth this would provide), the shortfall in capacity would still be significant over the long term [APP-250].

Heathrow and Gatwick interlinkages

- 4.3.12. The Applicant notes that LHR has not traditionally served the lower cost carrier (LCC) market, with 1.2mppa LCC passengers in 2019, 3% of the London system's market. In contrast, Gatwick's traffic is dominated by LCC, with airlines such as easyJet, Ryanair, Wizz Air, and Norwegian all operating from the airport. The Applicant notes that LCC growth is responsible for 73% of total growth in the London system since 2005 and the short haul (majority) element of this market is forecast to continue to deliver the largest growth in passenger volumes [APP-250].
- 4.3.13. The LCC market is largely served by Gatwick, Stansted and Luton in the London system, with the Applicant considering that the comparative lack of LCC at Heathrow is due in part to the landing charges that are levied at Heathrow (£27 per passenger as compared to £11 at Gatwick) [APP-250].
- 4.3.14. Gatwick consider that the Proposed Development would be operational in 2029, well ahead of the NWR and eight years ahead of the programme for Luton which assumes a capacity of 32mppa in 2037. The Applicant considers that the airport is unique amongst London's airports due to its carrier make up of full service, low cost, charter and regional airlines [APP-250].

- 4.3.15. The Applicant notes the existence of a secondary slot market at the airport, citing a sale in 2012 when Flybe sold 25 slot pairs to easyJet for around £0.8m per pair and a market value in 2019 of around £3m per pair, a value “*significantly higher*” than other London airports (apart from Heathrow) [APP-250]. At D1 a letter was submitted by the Applicant from Airport Coordination Limited (ACL) [REP1-052], which is appointed by the SoS for Transport as the independent slot coordinator for the UK. This letter states that a waitlist is maintained for Gatwick for slots, with over 600 slot requests from airlines being unallocated in Summer 2023 at the initial coordination point. For the same period for Winter 2023 there were nearly 300 slot requests unallocated. ACL notes that over the data available (2015-23) on average 12% of requested slots were not allocated, a figure “*higher than any other ACL Coordinated Airport*”.
- 4.3.16. In ISH1 [EV6-001 to EV6-003], the ExA asked the Applicant whether it could envisage a scenario where Gatwick became more of a hub airport like LHR, particularly if LHR remained constrained. In response [REP1-056] the Applicant noted that Gatwick already has some transfer traffic that self-connects and a significant volume of passengers connect from low cost services onto long haul. However, it noted that the aspirations are not to create a similar operation to Heathrow and that the forecasts submitted by the Applicant show that transfers are expected to remain a small sector demand (<5% of total passengers). In response to an earlier question the Applicant also noted that many markets served at Gatwick are hubs themselves so that significant volumes will hub at the other end rather than London.
- 4.3.17. In a follow up question at ExQ1 [PD-012], the ExA asked if this latter point had the potential to threaten the UK’s global aviation hub status. In response the Applicant noted that HAL estimates that 23% of their passengers are transferring between flight. The Applicant noted that Gatwick plays a complementary role, referring to the previous estimate of <5% (<2% in 2023).
- 4.3.18. The Applicant was of the view [REP3-084] that Heathrow would continue to maintain its hub position in the UK, and that while other markets have naturally started to catch up due to their economies and populations, such as Turkiye, the UAE, India, and Saudi Arabia, Heathrow would continue to feature prominently as a hub due to its strong geographical location for many transfer flows (e.g. Europe to North America) while other airports (e.g. Dubai, Istanbul) are better placed to benefit from flows involving faster growing markets in Asia.
- 4.3.19. The Applicant noted that LHR already has and will continue to have strong connectivity with overseas hubs, considering that if Gatwick achieves some enhanced connectivity with those hubs, passengers will benefit but Heathrow’s position as a hub is unaffected. Equally if Gatwick achieves point to point connections with other airports the role of hub airports is unaffected; Gatwick will be able to support Heathrow’s position as a hub airport as Gatwick and its airlines will not provide a competing hub proposition. To the extent that Gatwick would serve an increasing share of the UK’s long-haul market, this would take some pressure away from Heathrow and supporting its airlines in being able to continue their hub operation.
- 4.3.20. Further, the Applicant considered that without the Proposed Development, more transfer demand would likely be priced out of Heathrow (since transfers passengers are typically the most price sensitive and airlines favour ‘local’ passenger due to their higher yields). Therefore, with the northern runway, Heathrow will be able to attract more transfer demand supporting its role as a hub airport.

- 4.3.21. To support this point of view, the Applicant referred to the DfT's modelling at the time when both Heathrow and Gatwick were being considered for new full-length runways as part of the Airports Commission work, showing that under 'no expansion' Heathrow transfer demand was predicted to decline significantly to 4.7mppa by 2050 but that a second (southern) runway at Gatwick would lead to 10.9mppa transfer passengers at Heathrow by 2050.
- 4.3.22. HAL noted [REP1-192] that the demand forecasts put forward by the Applicant contain strong long-haul growth of over 145% by 2047, nearly double the overall airport growth rate. In their view Gatwick would need to demonstrate that this long-haul growth arises from point-to-point demand that is additional to, or different from, the additional hub demand to be served by the LHR NWR scheme. It also noted that the Applicant's forecasts do not include any additional capacity that would be provided by the NWR.
- 4.3.23. The LePAs considered [REP4-052] that any erosion of point-to-point flights at LHR as a result of the Proposed Development would in itself undermine the hub role at LHR as flights are made viable by a combination of point to point and transfer demand at a hub. They consider that there is inevitably an overlap with demand that could be met at Gatwick with the Proposed Development and with the NWR given the overlap of catchment areas. The LePAs consider that the overlap and interactions with Heathrow and the possible effects of the NWR have not been properly assessed or the impacts consistently considered.
- 4.3.24. In response to HAL, the Applicant noted [REP3-075] that Gatwick would continue to serve point to point routes where demand is typically large enough to justify several carriers on a route, such as New York, Orlando, and connectivity into non-UK hubs, where passengers can transfer often to markets unserved from London or not large enough to warrant further non-stop capacity. The Applicant goes on to state that the absence of the third runway inhibits Heathrow's ability to attract more long-haul traffic and with the Proposed Development Gatwick could secure some of that long haul traffic in the meantime. However, it recognised that with the implementation of the NWR a large proportion of long haul traffic would revert to Heathrow, while Gatwick would consolidate as a lower cost, complementary airport playing an important role as part of the wider market offer.
- 4.3.25. In response to the LePAs, the Applicant [REP5-077] considered that it is illogical that the airport could attract services from Heathrow which are made viable by a combination of point-to-point and transfer demand, considering that by definition such services will stay at Heathrow.

ExA's Conclusion on Capacity at London Airports

- 4.3.26. There are capacity constraints at all London Airports either through planning or operational reasons. However, in this context there is some spare capacity and various recent permissions have been granted; specifically at London Stansted and London City airports. While London City is a much smaller airport than Gatwick with differing characteristics, Stansted is more of a comparison airport. Although Stansted is smaller than Gatwick, it is an airport that has also grown substantially with the advent of LCC carriers and the ExA agrees with the LePAs that there is the potential for more long-haul growth from this airport.
- 4.3.27. However, the ExA also acknowledges that Gatwick is unique in other ways as a UK airport; with a fairly diverse mixed range of traffic (albeit dominated by LCC traffic), set in a reasonably affluent catchment with frequent and reasonably easy and direct

access to London. The airport is also well established as the second largest airport in the UK.

4.3.28. At the time of writing a decision is awaited on the application for Development Consent for Luton Airport to increase the passenger cap at that airport from 19mppa to 32mppa. As such, the ExA does not apportion weight to this potential growth, but notes that even in the event of a positive decision for Luton it would still likely be smaller than Stansted and much of their forecast growth would occur in the mid-2030s.

4.3.29. The ExA notes the strong secondary slot market at Gatwick. The letter from ACL submitted at D1 [REP1-052] offers persuasive evidence of an airport that is heavily constrained at certain key times and months of the year with demand significantly outstripping supply. The ExA also notes evidence from the LePAs in this respect which states:

“The JLAs recognise that Gatwick Airport, as currently configured, is constrained as to the numbers of passengers that can be accommodated, especially at peak times, and, to that extent, there is a need case for expanding its capacity.” [para 3.11, REP9-151]

4.3.30. Evidence from easyJet is also noted:

“GAL has significant market power in a London airport constrained system where slots are scarce and demand is high” [REP9-371]

4.3.31. While this quote is set in the context of airport quality and reliability, it clearly shows the demand for growth at Gatwick (and the wider London system), from the airport’s current leading airline with around 50% of the traffic at the airport.

4.3.32. The Applicant is of the view that the Proposed Development would be operational in 2029. While this may be slightly ambitious given the timing of the Examination and possible timescales for any approval and legal challenges, the ExA agrees that if granted, it would still be operational substantially in advance of LHR NWR given the significant construction times and position in the planning system of that proposal.

4.3.33. Heathrow and Gatwick airports are set reasonably close to each other and to a certain extent share the same catchments. However, the markets they serve, while similar in some ways, are very different in others. As the hub airport for the UK, Heathrow is not just in competition with UK airports such as Gatwick but also other hubs in Europe such as Paris Charles de Gaulle and Amsterdam Schiphol and also more globally in the Middle and Far East.

4.3.34. The ExA appreciates that Heathrow only has a small LCC market, with just 3% of the London’s systems market in 2019 [APP-250]. This is in direct contrast to Gatwick, which is an airport (like Stansted and Luton) that is dominated by the LCC market. The ExA note that LCC growth is responsible for 73% of total growth in the London system since 2005 and the short haul (majority) element of this market is forecast to continue to deliver the largest growth in passenger volumes [APP-250].

4.3.35. The ExA notes that 23% of Heathrow passengers are transferring between flights and that less than 5% of Gatwick passengers are expected to do the same. While this figure is up from less than 2% in 2019, this is still a small increase and would be significantly less than LHR where a large proportion (nearly ¼ of all passengers) use the airport as a hub.

- 4.3.36. It is clear that the Gatwick forecasts include some significant long-haul growth, at a rate of 145% growth by 2047; however, this is starting from a relatively small base. In the absence of the NWR the growth of Gatwick would inevitably attract some point-to-point traffic which might otherwise have flown from Heathrow given the current restrictions at Heathrow, the proximity of the airports and of their catchment areas. However, the ExA agrees with the Applicant that such traffic (including long-haul) would likely revert to Heathrow if and when the NWR opens.
- 4.3.37. The ExA therefore considers that the Proposed Development would not unduly affect the hub status of LHR in the long term. While in the short term there may be some effect, this would not be significant or long lasting. Furthermore, the DfT's modelling for the Airports Commission cited by the Applicant demonstrates that the Proposed Development could in itself promote more transfer traffic at LHR with more capacity for point-to-point traffic opened at Gatwick. The ExA agrees that flights at Heathrow which are viable from a mixture of point to point and transferring traffic would stay at LHR as the transferring passengers contribution to the flight would remain at LHR and economies of scale would be unlikely to make a move to Gatwick logical for the connecting flights for the transfer traffic.

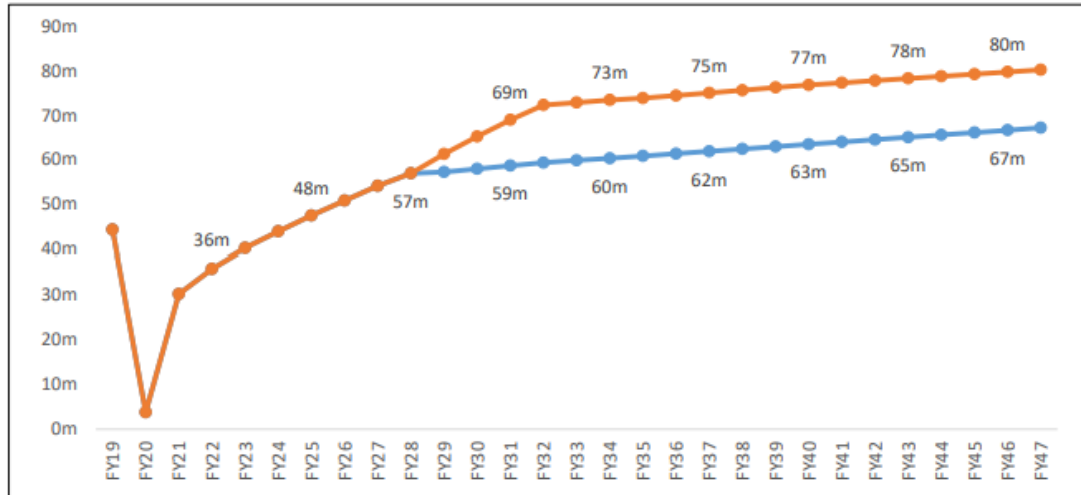
DEMAND FORECASTS

- 4.3.38. Forecasts were submitted with the application for the 'existing runway case' (or the future baseline) and the 'northern runway case' (the NRP case). The forecasts were prepared through a mixture of bottom-up and top-down forecasting [APP-250]. The Applicant states that:
- "the bottom-up approach is useful for a capacity constrained airport such as Gatwick and provides a detailed picture of how the airport and its airlines would respond to a release of capacity in terms of future traffic mix, informed by discussions with airlines and slot applications", and "the top-down approach provides useful context around the wider London system demand levels and constraints at other airports."*
- 4.3.39. The future baseline case represents the Applicant's forecasts for the growth of traffic at the airport without the Proposed Development, whereas the NRP case shows the forecast growth with the Proposed Development. It is the Applicant's case that the future baseline case is achievable without developments that require planning permission; that the future baseline forecasts can be met by the existing facilities, extant planning permissions, and the use of permitted development powers. The Applicant's Needs Case [APP-250] notes that unlike other London airports Gatwick is not subject to passenger or air transport movement caps, and stated that in the 'no project' world the existing controls that the airport is subject to would continue to have effect (although an existing voluntary section 106 is time limited and subject to review) [REP8-108].
- 4.3.40. Forecasts were created for four primary years – 2029, 2032, 2038, and 2047. The core forecasts were created with the current planning caps for Heathrow and Luton maintained with the approved Stansted permission to 43mppa included. The NRP forecast assumes the Proposed Development becomes operational in 2029 and after a phased release of capacity will return to a constrained environment with excess demand. Sensitivity test forecasts were produced for four other separate scenarios:
- A slower growth scenario, adopting a more conservative view of growth;
 - A slower fleet transition, wherein the rate of transition to next generation aircraft within the forecasts is slowed;
 - A scenario where the NWR is constructed; and

- A scenario including an expanded Luton airport.

4.3.41. The primary forecasts are shown below (taken from [APP-250]):

Figure 4.612: Primary Passenger Forecasts from Applicant’s Need Case



Note: Recovery profile prepared mid-2020 with short term updated with actuals. FY22 (YE Mar 2023) is an estimate as of Jan'23.
Source: CAA/GAL Statistics

4.3.42. Crawley Borough Council, Horsham District Council, Mid Sussex District Council, and West Sussex County Council express in their LIR [REP1-068] concerns with a primarily bottom-up approach to forecasting, considering that the use of this approach to modelling future demand, coupled with uncertainty about the validity of top-down modelling, led them to consider that the demand forecasts in their present form could not be relied on. Appendix F to the LIR [REP1-068] expanded upon this:

“Whilst bottom-up forecasts are commonly used for short term planning at airports, typically for up to 5 years, as these are able to reflect known discussions with the airlines, they are too dependent on judgement and assumptions to be reliable over the longer term not least given the short term nature of airlines’ planning horizons at the individual route level.”

“Best practice for long term demand forecasting is to use econometric modelling and, in the circumstances where there are step changes in airport capacity expected, it would be best practice to use a systematic allocation model that assesses the share of each airport in different competitive circumstances. We do not accept GAL’s [Gatwick Airport Limited’s] contention that top-down modelling is less applicable to capacity constrained situations (Issues Tracker [AS-060], 16.2) as, properly specified, a model can replicate the effect of constraint and its release. Such an approach has traditionally been adopted by the Department for Transport and has been used for the London Luton Airport DCO application as well as for other airport applications, such as at Bristol in 2021.”

4.3.43. Following such concerns the Applicant presented a ‘refreshed and more detailed’ top-down approach at D1 in their Technical Note on the Future Baseline [REP1-052]. These were based on the Jet Zero March 2023 forecasts. They were presented on a ‘without prejudice’ basis and the Applicant stated that they preferred the bottom-up forecasts. The tables below (Figure 4.7 [REP1-052]) show the comparison between the two types of forecasts for the baseline and NRP case:

Figure 4.713: Comparison of Top-Down and Bottom-Up Forecasts for Baseline and NRP Case

Figure 45 Comparison of Top-Down and Bottom-Up Forecasts, LGW Baseline (passengers, m)

	2029	2030	2032	2035	2038	2044	2047
Bottom up	57.3	58.0	59.4	60.9	62.4	65.6	67.2
Top down	56.1	58.0	59.4	60.9	62.4	65.6	67.2
Variance	-2%	0%	0%	0%	0%	0%	0%

Note: Capacity assumptions aligned in both scenarios

Table 29 Comparison of Top-Down and Bottom-Up Forecasts, Northern Runway (passengers, m)

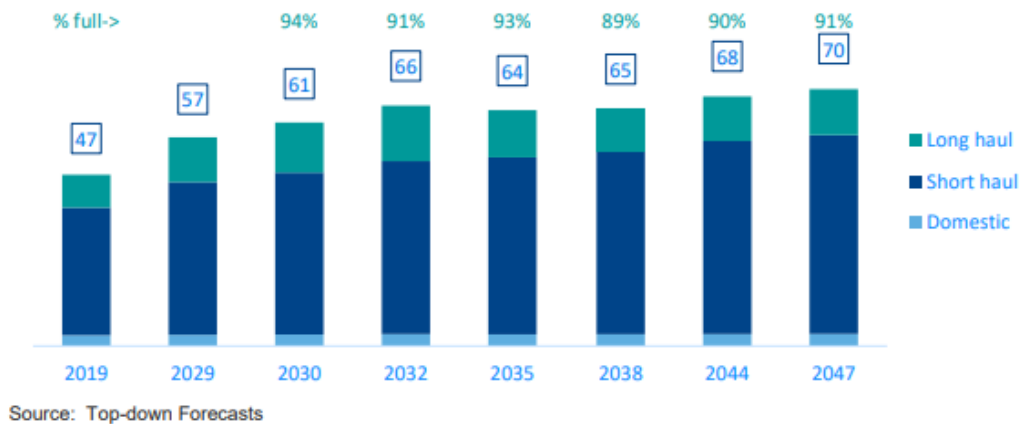
	2029	2030	2032	2035	2038	2044	2047
Bottom up	61.3	65.3	72.3	73.8	75.6	78.7	80.2
Top down	57.1	61.1	65.7	70.8	75.6	78.7	80.2
Variance	-7%	-6%	-9%	-4%	0%	0%	0%

Note: Capacity assumptions aligned in both scenarios

- 4.3.44. The LePAs were of the view that the top-down forecasts were preferable [REP9-098] and considered that it was significant that the top-down forecasts show a slower build-up of demand to use the NRP. They considered that the forecasts for the NRP must be based on the overall demand within the London area and the extent of competition across the London airports to meet that demand, which could only be determined through top-down econometric modelling of the interaction between airports and their catchment areas [REP7-104].
- 4.3.45. The top-down forecasts were also used to ‘provide insight’ into the sensitivity forecasts [REP1-052], using assumptions that the NWR could open in 2035 and separately expansion at Luton airport and London City airport could take place under the terms of their development consent order/planning applications.
- 4.3.46. The NWR would have a significant impact on long haul volumes, with much of this demand back filled by short haul demand and is summarised by the chart below [REP1-052]:

Figure 4.814: Effect of LHR NWR on Gatwick NRP Case Under a Top-Down Forecast

Figure 52 Gatwick Outputs, Northern Runway (passengers, m)



4.3.47. The Applicant considers that spare capacity under this scenario could be used to incentivise airlines and that this would be significant. The scenario with the expanded Luton and London City shows a Gatwick airport with numbers very similar in the NRP case to those shown in Figure 7 above, with slightly lower numbers at 2030 and 2038 (around 1mppa at each) [REP1-052].

ExA’s Conclusion on Demand Forecasts

4.3.48. The differences between the original top-down forecasts and the bottom-up ones submitted at D1 [REP1-052] is primarily a difference based on rates of growth at the airport. The top-down future baseline forecast shows a slightly slower rate of growth in initial years, with traffic 2% down but by 2030 traffic has caught up and remains at the same predicted levels as that predicted by the bottom-up forecast until the final forecast year of 2047. However, the NRP forecasts show significantly more variance, with the figures not matching up until 2038 (75.6mppa). The earlier years of 2029, 2030, and 2032 show figures of 7%, 6% and 9% lower respectively in the top-down forecast when compared to the bottom-up forecasts.

4.3.49. The ExA agrees with the concerns of the LePAs over the reliance of bottom-up forecasts over the longer term. While bottom-up forecasts are necessarily useful in the short term and would reflect the detailed conversations that the airport would have with its key airline customers and their plans, the ExA notes that aviation is a volatile business subject to numerous external factors and that airports are located in a highly competitive marketplace for airline traffic, where routes and flights can be altered at short notice.

4.3.50. However, the ExA also notes that the years of significant variance between the bottom-up and top-down forecasts are fairly early; at years 2029-2035 for the NRP and thus within six years of the proposed opening date of the NRP. It is reasonable to assume that conversations with airlines over their plans for if and when the NRP opened and the opening of capacity that this would provide (especially at peak times) would be well advanced and typically more reliable than a ‘normal’ bottom-up forecast for five to ten years in the future under a ‘business as usual’ plan.

4.3.51. The ExA therefore considers that while growth in the NRP may not be as rapid as predicted by the bottom-up forecasts it would nevertheless likely be ‘quicker’ than the top-down forecasts and the true figure may be somewhere in between the two

figures – potentially at half of the variance figures presented in Figure 7, although this figure is largely conjecture. Such a figure would lead to the benefits of the NRP in the ‘early years’ being overstated to a small degree. However, the ExA does not consider that such impacts would be significant and notes that by 2038 the projected figures would have ‘caught up’ with each other.

4.3.52. Given the timeline assumed for the potential opening of the NWR (agreed with by the ExA above, assumed at 2035), the top-down forecasts are considered to be more likely and realistic for this scenario. These show Gatwick impacted reasonably significantly, particularly for long haul traffic. This accords with our conclusions above. The potential for Gatwick to replace such traffic with short haul traffic is noted and recognised, particularly given methods such as price incentivisation. Benefits would be lower with the NWR, as would adverse effects.

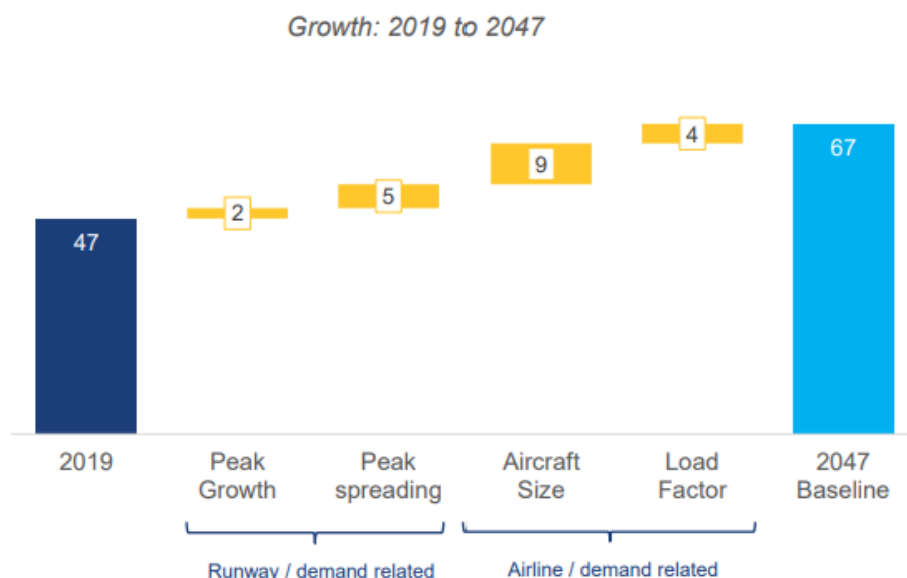
FUTURE BASELINE AND NORTHERN RUNWAY PROJECT

4.3.53. The Technical Note on the Future Baseline [REP1-047] contained details of the ‘make up’ of the future baseline forecast and outlined the four elements of growth (shown in Figure 4.9 below) that the Applicant considered would take the airport from 47mppa in 2019 to 67mppa in 2047. These were:

- Peak growth +2mppa
- Peak spreading +5mppa
- Aircraft size +9mppa
- Load factor +4mppa

4.3.54. Although specifically related to the future baseline, it was confirmed by the Applicant at ISH1 [EV6-001 to EV6-003] that the same principles of growth also applied to the NRP case - that in effect the NRP case includes the baseline growth, plus that attainable from the specified use of the northern runway.

Figure 4.915: Component Parts of Future Baseline Growth 2019 to 2047



4.3.55. Following discussion in the Examination around these elements of growth the ExA issued a request for further information under Rule 17¹⁰ on 9 May 2024. This

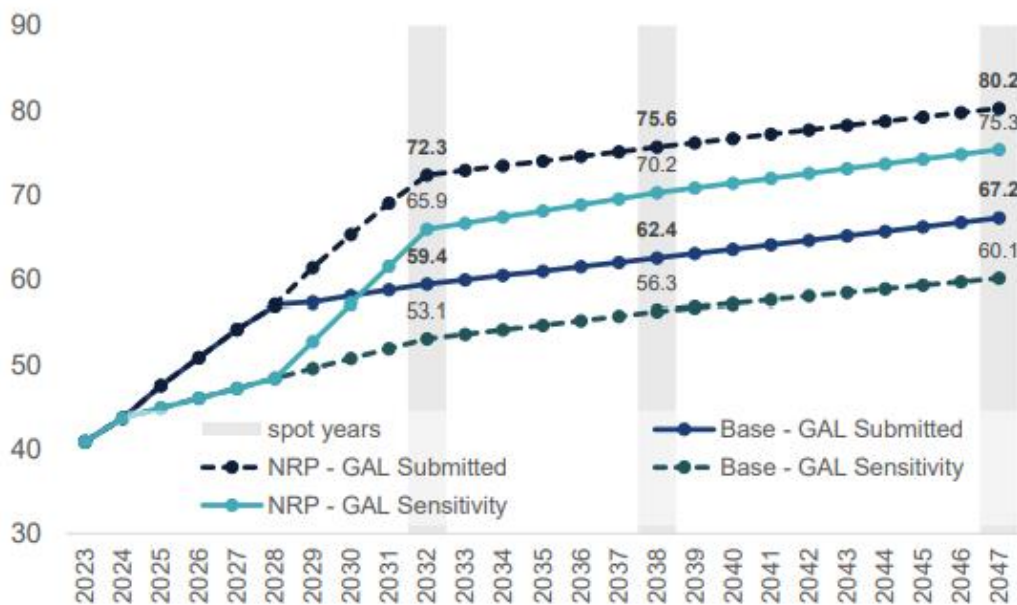
¹⁰ Infrastructure Planning (Examination Procedure) Rules 2010

included a request for the LePAs to confirm their view of what would be a realistic future baseline figure (together with which elements of the Applicant’s case they disagreed with to come to this figure) and for the Applicant to subsequently provide a sensitivity analysis based on this/these figures upon the effects stated in the application (such as noise, transport, air quality, surface access, socioeconomics etc) [PD-018].

4.3.56. At D4 [REP4-049] the LePAs produced their baseline figure range of between 56.4mppa and 60.1mppa. By the end of the Examination [REP9-151] this had been narrowed down to 57mppa by 2047, 10mppa short of the Applicant’s figure. With the NRP in place, the LePAs considered that the airport could grow to some 75-76mppa by 2047, around 6mppa shy of the Applicant’s forecast of 80.2mppa. This results in a gap, or delta, between the two figures of around 18-19mppa as opposed to the 13mppa in the Applicant’s figures. The LePAs also stress that their NRP figure does not take account of any effects of potential airport development taking place elsewhere (in the sense that such competition could further reduce anticipated passenger numbers).

4.3.57. At D5 the Applicant provided comments on the LePAs initial forecast figures and produced a further sensitivity test of their own, while stressing that this was without prejudice to their central case. This test adopted a ‘far more conservative assumption in both the future baseline and the NRP case’ and arrived at figures of 60.1mppa for the baseline case and 75.3mppa for the NRP, and a delta of just over 15mppa (see figure 4.10 below) [REP5-081].

Figure 4.1016: Applicant’s DCO Case and Sensitivity Case Comparison



Peak Growth

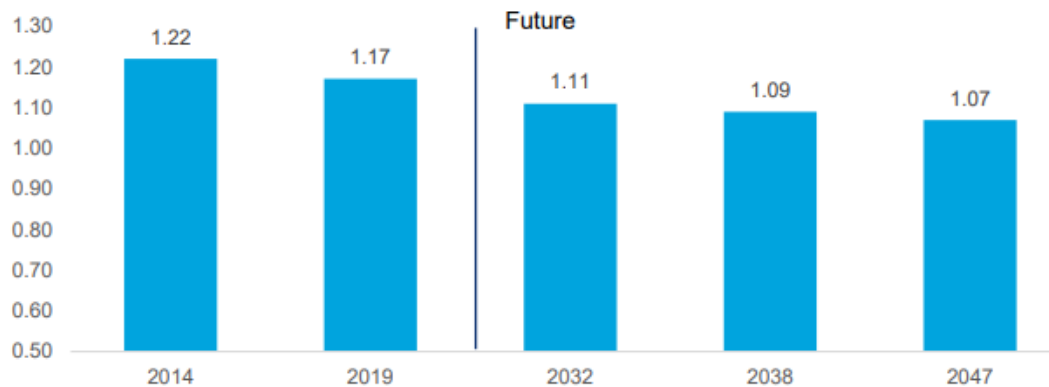
4.3.58. The Applicant notes that growth has historically been achieved in the peak months through the incremental growth of runway capacity. It cites an example of the 2009-2019 period when the airport increased its maximum hourly throughput from 53 to 55 movements per hour as well as operating at its maximum capacity in more hours of the busy month [REP1-052].

- 4.3.59. The forecasts predict that the airport will increase the number of hours declared at 55 movements per hour as well as continuing to increase the number of hours operating at its hourly capacity limits: in 2019 the airport's busiest month was August and in 2019 on the busiest day of the year Gatwick handled 924 commercial movements; this is forecast to increase to over 950 movements on future peak days [REP1-052].
- 4.3.60. The Applicant also states that within the busy months there is a range of runway utilisation performance: while the busiest day in August 2019 had 924 commercial movements, the average daily movements in the month was just under 900. Over time, the quieter days are forecast to become proportionally busier. It is noted that the growth forecast in these peak periods will also support capacity throughout the year since airlines typically operate year-round schedules [REP1-052].
- 4.3.61. Much of the LePAs views on peak growth are included under peak spreading, below. At D3 [REP3-123] they noted that it appeared that the increase in busy day operations is all expected to be after 19:00 and consider that it is not clear that there is sufficient airline demand to operate solely in the evening to deliver an uplift on such a basis. Furthermore, they were unsure of the extent to which this assumption would place pressure on any limits on nighttime operations of new departures added after 19:00 and needing to return to the Gatwick base so as to be ready for the next day, noting that similar considerations could apply to new long haul arrivals in this period as allowance would need to be made for realistic aircraft turnaround times. They were not convinced that this would not lead to more night flights.
- 4.3.62. At D9 the Applicant stated that while the average of daily ATMs in August is largely aligned between the LePAs and the Applicant, the busy month is not, and that the LePAs make no allowance for quieter days in August to become busier. The Applicant noted that a combination of this becoming busier (in 2014 the peak August day was 5% busier than the average August day; in 2019 this was down to 3%) and an increase in the peak day capacity of a further 12 slots across the day would add an extra 1.5mppa to the LePAs baseline figure [REP9-115].

Peak Spreading

- 4.3.63. Peak spreading was often also referred to as seasonality in the Examination. The Applicant noted [APP-250] that aviation demand is inherently seasonal reflecting demand patterns seen throughout the year with the summer peak months representing the busiest time of the year.
- 4.3.64. The Applicant noted at D1 [REP1-052] that the peak month (August) in 2019 was 17% busier than the year round average, a reduction from 22% in 2013, demonstrating, in the Applicant's view how the airport's airlines were incrementally infilling the off peak periods of demand, noting that between 2013 and 2019 the peak months (Jul-Sep) grew by 8% (in terms of ATMs) while the off peak months (Nov-Mar) grew by 15%.
- 4.3.65. The forecasts assume that this peak spreading will continue and that by 2032 the busiest month would be 11% busier than average. Such a trend was forecast to continue so that by 2047 this figure would drop to 7%. The figure below shows this 'seasonality ratio' – for example, that in 2038 the busiest month would be 9% busier than average, a seasonality ratio of 1:09 (in the view of the Applicant) [REP1-052].

Figure 4.1117: Peak Spreading/ Seasonality Averages



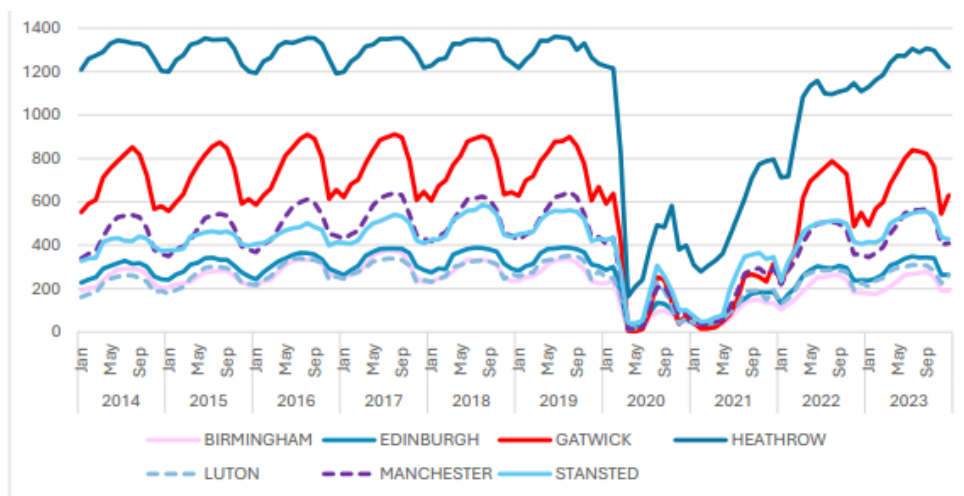
Source: CAA/Gatwick Statistics/Gatwick Forecasts

- 4.3.66. The LePAs note that the baseline case relies on an increase of 43,000 annual ATMs above 2019 levels by 2047, an additional 118 movements on average over each day of the year (and 82 a day by 2032). They note that the Forecast Databook [APP-075] shows a further 47 movements a day in the peak period by 2032, equating to 17,000 ATMs annually if the flights were operated on a year-round basis [REP4-049].
- 4.3.67. Further, they note that the total number of daily slots available to airlines in 2019 was 870 and the average number of actual movements in a peak month was 845. In 2024 the number of slots available was increased to 882, which the LePAs assume was due to the opening of a new rapid exit taxiway. However, the modelling assumed 869 slots per day. They state that the Applicant's own case adds 24 movements on a busy day (869-845) which is significantly less than the 47 previously stated [REP4-049].
- 4.3.68. If the 118 movements cannot be accommodated in the peak period, then this would place a greater emphasis on adding services in the shoulder and off peak/ winter months only. They note that peak growth delivers peak spreading by adding new services which operate consistently on a year-round basis, but state that as the Applicant only predicts a 2mppa uplift by peak growth then this would equate to 27 additional movements to be added year round, more than the 24 movements shown above. Based on these 27 movements, this would require an average of 122 additional daily flights to be added over the remaining nine months of the year. The LePAs do not consider it is plausible that so many additional flights would be operated only outside of the peak period (especially as peak operations are the most profitable for airlines). The LePAs consider that overall growth is more likely to be pro-rata to the ability to accommodate more movements in the peak period [REP4-049].
- 4.3.69. The Applicant was of the view that the LePA's view of peak spreading is 'extreme' [REP5-081] and consider that the LePA's baseline forecast shows no peak spreading and the NRP forecast shows every new slot perfectly peak spread (flat throughout the year). The Applicant disputed this due to, amongst other reasons, the history of peak spreading from 2014-2019 when ATMs grew by 14% a year outside the summer season (against 6% across the year), and that between 2016-2019 when no uplift in the peak period was experienced 5% growth in the winter occurred, as well as details such as seasonal pricing/ incentivisation through pricing.

4.3.70. The Applicant noted that the consequence of the LePAs NRP forecast was that the peak traffic was predicted to exceed the Applicant’s forecast in August but be less for the remainder of the year and consider that this relies on the airport being able to achieve a substantially greater number of flights than the airport believes is physically possible. This issue was particularly acute in the LePA’s ‘high’ NRP forecast, with modelling software used by the Applicant showing grid lock of the taxiway system; the ‘low’ NRP forecast would result in significant delays for departing and arriving passengers. Both scenarios would require additional stands and terminal facilities over and above that proposed in the Proposed Development [REP5-081].

4.3.71. The LePAs state [REP6-099] that their position is that the ability to spread the peak over the year is related to the ability to add services during the busy summer period that can operate year round. They predict some peak spreading derived from the usage of slots in the summer which are at less attractive times of the day being filled, which would reduce the seasonality ratio to 1.16. They noted that in 2023 the ratio achieved was 1.21, considering that this showed changes in traffic post pandemic that increased the dependence on the peak period and to some extent showed the faster recovery of leisure travel over business travel. A graph showing the average daily movements at the UK’s largest airport was submitted (Figure 4.11 below [REP6-099]), showing Gatwick’s profile more in line with other larger UK airports other than Heathrow (and potentially more ‘peaky’).

Figure 4.1218: Average Daily Movements by Month 2014 to 2023 at UK’s Largest Airports



Source: CAA Airport Statistics

4.3.72. They note that a ratio of 1.07/1.06 would match Heathrow and the same assumption applies to the baseline as to the NRP case, which, in the opinion of the LePAs does not seem logical or plausible [REP6-099]. The LePAs at this stage revised their forecast for the future baseline to 57mppa and using their same assumptions arrived at 75-76mppa for the NRP (with a peak spreading of 1.13 rounded up), and 18-19mppa for the delta between the two [REP6-099].

4.3.73. In response to the ExA’s ExQ2 CS2.3, the Applicant [REP7-078] stated that given the extensive engagement and comprehensive evidence presented to date, it was not considered that any further discussion between the two parties would result in any agreement being reached on these matters – but that the ExA need not be concerned by this lack of agreement, as even if the LePAs were correct then this

would not give rise to significantly different environmental effects and the case for the NRP would be stronger, as the need case would be stronger if Gatwick's ability to meet demand is as constrained as the LePAs suggest.

- 4.3.74. At D6 the Applicant had noted that [REP6-091] the LePAs stated at D5 that Gatwick could reach 80mppa in time:

"To reiterate our position, subject to being able to verify that the simulation modelling is robust, it appears plausible that the NRP may be able to accommodate c.80 mppa over the longer term based on the latest simulation modelling presented by the Applicant. However, the question remains as to the timescale over which the passenger demand at Gatwick will build up and how this interacts with matters such as the transition of the airline fleet to new generation aircraft or the realisation of surface access targets and mitigations so as to ensure that controls and limits are set appropriately to manage the impacts of the NRP. It is equally important that the timescale over which the benefits of the development will arise are properly understood and that those benefits are not overstated." [REP5-094]

- 4.3.75. The Applicant advanced the view that the timing of the fulfilment of the forecasts is not important, noting paragraph 30 from the Stansted decision, which stated:

"30. It remained unclear throughout the Inquiry, despite extensive evidence, why the speed of growth should matter in considering the appeal. If it ultimately takes the airport longer than expected to reach anticipated levels of growth, then the corresponding environmental effects would also take longer to materialise or may reduce due to advances in technology that might occur in the meantime. The likely worst-case scenario assessed in the ES and ESA, and upon which the appeal is being considered, remains just that. Conversely, securing planning permission now would bring benefits associated with providing airline operators, as well as to other prospective investors, with significantly greater certainty regarding their ability to grow at Stansted, secure long-term growth deals and expand route networks, potentially including long haul routes". [REP6-091]

- 4.3.76. At D7 the LePAs noted that they allow in their baseline case for between 12 and 24 additional daily movements at average over the peak month, and that these would be spread across the year to contribute to seasonal spreading, and they reiterated to achieve the increase in throughput to reach the Applicant's baseline forecast would require 47 daily additional movements in the peak, which is not possible within the context of the declared capacity of the runway. They also state that demand for winter slots has fallen at Gatwick for winter 2024/ 25 compared to 2023/ 24, a situation which is not mirrored at Heathrow or Stansted [REP7-104].

- 4.3.77. At ISH9 [REP8-112] the Applicant stated that the 47 additional daily ATMs was a misunderstanding on the behalf of the LePAs, noting that Annex 6 of the Forecast Data Book [APP-075] states that this figure is the peak month increase in ATMs. The growth in the peak day is forecast to be less than the growth in the peak month, reflecting peak spreading across the peak month as well as across the year. Busy day movements increase from 928 in 2019 to 950 in 2032 and 954 in 2038 [REP8-108].

- 4.3.78. At the same ISH (9) [REP8-166], the LePAs noted that the issue of baseline capacity is critical because if airlines request slots at specific times and the airport is already full at those times, achieving the degree of peak spreading asserted by the Applicant becomes unlikely. Evidence, including statements from the Applicant, shows that the airport is full during the times airlines want to operate, supporting the view that a baseline of 67mppa is not plausible and confirming their view that a

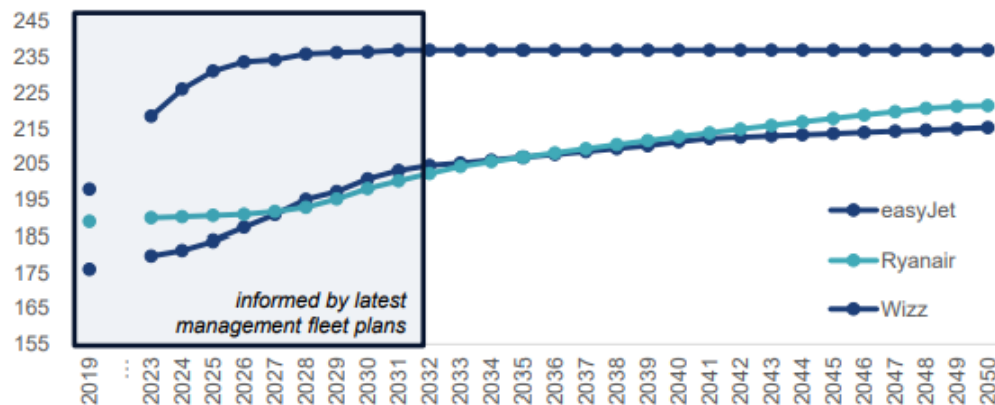
baseline of 57mppa is more realistic. They considered that the calculations regarding the 47 movements showed that to achieve the uplift in passenger volume claimed, these services would need to operate daily, including both peak and off-peak days, with additional services on off-peak days. The Applicant's information did not align with this requirement and was mathematically inconsistent [REP8-166].

- 4.3.79. At D9 the Applicant submitted a comprehensive document [REP9-115] containing details on peak spreading, reaffirming their views. This document states that easyJet for instance were 21% busier in August 2014 to other months (on average) but that by 2019 this had fallen to 14%. The Applicant also noted that other UK airports (other than Heathrow) are not constrained to the same levels as Gatwick and that Gatwick saw seasonality decrease by 22% from 2014 to 2019 whereas Birmingham and Manchester saw negligible shifts.
- 4.3.80. The Statement of Common Ground between the Applicant and the LePAs on Forecasting and Need [REP9-098] showed a large number of disagreements outstanding.
- 4.3.81. The Gatwick sensitivity test produced by the Applicant assumes that peak spreading ratio reduces from 1.16 to 1.13, a figure far less than the DCO assumption. This is what primarily drives the drop in the baseline figures from 67.2mppa to 60.1mppa. The peak spreading reduction has knock on effects in terms of peak growth, aircraft size and load factors and in turn the NRP case is restricted to a ratio of 1.12, providing the majority of the reduction from 80.2mppa to 67.2mppa [REP5-081].

Aircraft Size

- 4.3.82. The Applicant notes that average aircraft sizes have been growing across the industry and details the increase in the average aircraft size at Gatwick in the period 2010-2019 from 170 to 192 seats, a 13% increase [REP1-052]. The average aircraft size is assumed to increase by 9% (to 210 seats) in the period up to 2030, with further growth up to 224 seats per average plane by 2047 (Figure 4.13 below) [REP1-052]. This is based on fleet assumptions for the main airlines using the airport. They note that airlines focus on ordering aircraft that have more seats where they can, in essence, fit more people on to a single plane. The Applicant is also of the view that at capacity constrained airports, airlines are more likely to up-gauge aircraft at a faster rate reflecting the scarcity of capacity.

Figure 4.1319: Average Aircraft Assumptions



Source: Airline reports

- 4.3.83. The LePAs broadly agree that increase in the average number of passengers per aircraft will occur, although they note that in the future baseline case the more limited scope for new services would limit the overall increase in average aircraft size. They do not consider that it is necessarily the case that airlines are more likely to up-gauge aircraft more quickly at a capacity constrained airport as this would depend on the aircraft available within their fleet [REP9-098].
- 4.3.84. At D9 the Applicant noted that using the airport's aircraft size figures would add an extra 1.6mppa to the LePAs future baseline figure [REP9-115].
- 4.3.85. The Applicant's Gatwick sensitivity test includes the same average aircraft sizing as the DCO submission [REP5-081].

Load Factor

- 4.3.86. The Technical Note on the Future Baseline [REP1-052] notes that average seat occupancy (load factor) has been growing across the industry, with Gatwick having experienced an increase from 79% to 86% in the years from 2010 to 2019. While this dropped significantly during the pandemic, 2023 figures up to August indicated a return to 85% [REP1-052]. The forecasts assume that this will increase to 90% by 2030 and to 91% to 92% by 2040-47. LCC such as easyJet and Ryanair have improved load factors significantly in recent years.
- 4.3.87. The LePAs note [REP4-049] that although some airlines do operate regularly with load factors in excess of 90% over the year as a whole, many airlines operate at below these levels. They also note that there is a natural ceiling on the load factor as markets are not balanced, giving the example that more people leave the UK at the start of a holiday period meaning that inbound flights will necessarily be more lightly loaded whilst the converse is true at the end of a holiday period. They also note seasonal differences in load factor and these will vary by market. The LePAs consider that a load factor of 90% would be more realistic for a year round load factor, accepting that it is likely to be higher in peak periods. At D9 the Applicant notes that using the airport's load factor figures would add an extra 1.4mppa to the LePAs baseline figure [REP9-115].
- 4.3.88. The Applicant's Gatwick sensitivity test reduced the load factor assumptions to around 90%, and thus the same as the LePAs assumption [REP5-081].

ExA's Conclusion on Future Baseline and Northern Runway Project

- 4.3.89. The ExA was grateful for the assistance of the main parties in discussions relating to this complex subject. Conclusions on the main elements of the proposed growth for the baseline and the NRP cases are set out below.

Peak Growth

- 4.3.90. The ExA agrees that a 2mppa increase for peak growth in the baseline forecasts is reasonable and theoretically achievable (subject to capacity constraints, see below). The ExA has come to this view due to the increase in hours declared at 55 movements per hour and continuing to increase the number of hours operating at Gatwick's hourly capacity limits. Quieter days in peak months are likely to become busier and the ExA agrees that this would generate a significant amount of traffic in itself.

Peak Spreading

- 4.3.91. The issue of peak spreading was possibly the area where the views of the Applicant and the LePAs differed the most. The two parties were set significantly apart and the gap in opinions did not vary during the Examination.
- 4.3.92. The ExA considers that, based on the evidence provided, the Applicant's case seems optimistic in this regard. To achieve a traffic profile akin to that of Heathrow in the baseline case seems over ambitious, particularly given the different nature of much of Heathrow's traffic. While the ExA can appreciate that peak spreading will occur more in the future (and note in this respect the change from 2013 to 2019) both due to necessity (ie lack of slots in the peak periods) and customer profile and habit (an ageing population with more disposable income travelling out of the school holidays) the peak periods will likely always be significantly busier than the off peak periods, primarily due to school holidays, and will generate more profit for airlines.
- 4.3.93. However, the ExA is also of the view that the LePAs forecasts seem overly negative. No peak spreading other than largely as a function of peak growth seems unduly pessimistic. The ExA appreciates that some peak spreading will occur and that the increase that was witnessed in the years running up to the pandemic may return, even if at not quite such a quick rate. It also appears to the ExA that based on the evidence provided the 47 additional movements are a peak month increase as opposed to a peak day.
- 4.3.94. Given our views above around the ratio of Heathrow (1.07) a ratio at Gatwick in the region of 1.09/1.10 for the NRP and baseline case respectively may be achievable, reflecting the different traffic at Gatwick to Heathrow, noting the dominance of LCC and primarily leisure traffic at Gatwick.

Aircraft Size

- 4.3.95. Aircraft size makes up a substantial proportion of the growth in the future baseline case (and NRP) of 9mppa. The LePAs broadly agreed with the Applicant on this point, subject to reservations over the more limited scope for new services in the baseline case and doubts that the constraints at the airport would make it more likely for airlines to up gauge aircraft more quickly than they might otherwise have done so.
- 4.3.96. The ExA shares such concerns. While growth via larger planes would be significant and in the region of the Applicant's estimates, the 9mppa uplift may be slightly overoptimistic, although not to a large degree.

Load Factor

- 4.3.97. The ExA concurs with the LePAs that there is a natural ceiling on load factors, and considers that 90%-91% for this ceiling seems appropriate. While it is in the airlines' clear interest to increase load factors as far as possible, there will always be routes which are not as popular as others and passengers will always miss flights. However, the LePA example that more people leave the UK at the start of a holiday period meaning that inbound flights will necessarily be more lightly loaded whilst the converse is true at the end of a holiday period may well be true but would seem unlikely to affect average load factors, as while the route out may be, for example, less than 90% full, the route back would likely be more than 90%.

- 4.3.98. The ExA notes that the Applicant stated that the airport's load factor figures would add an extra 1.4mppa to the LePAs baseline figure and that their own sensitivity test reduced the figure to 90%.

ExA's OVERALL CONCLUSION ON THE NEED CASE

- 4.3.99. As detailed above, the ExA considers:
- In the context of the overall levels of air passenger demand in the London system, the Proposed Development would deliver a reasonably modest increase in capacity to help meet this demand.
 - There is the potential for more long-haul growth from Stansted airport, but Gatwick is fairly unique as a UK airport; with a diverse mixed range of traffic (albeit dominated by LCC traffic), set in a reasonably affluent catchment with frequent and reasonably easy and direct access to London.
 - That no weight should be given to potential growth at Luton airport, but that even in the event of a positive decision for Luton it would still likely be smaller than Stansted and much of their forecast growth would occur in the mid-2030s.
 - The letter from ACL submitted at D1 [REP1-052] offers persuasive evidence of Gatwick being heavily constrained at certain key times and months of the year with demand significantly outstripping supply. Evidence from the LePAs and easyJet in this respect is also noted.
 - If consent is granted for the NRP it would be operational substantially in advance of LHR NWR.
 - The Proposed Development would not unduly affect the hub status of LHR in the long term. While in the short term there may be some effect, this would not be significant or long lasting.
 - There are concerns over the reliance of bottom-up forecasts over the longer term. However, the years of variance between the bottom-up and top-down forecasts are fairly early. Due to this the benefits of the NRP in the 'early years' may be overstated to a small degree, but such impacts would not be significant.
 - In the event of the LHR NWR being opened, the top-down forecasts are more realistic. Under such forecasts Gatwick would be impacted reasonably significantly, particularly for long-haul traffic. Benefits of the NRP would be lower, as would adverse effects.
 - A 2mppa increase for peak growth in the baseline forecasts is reasonable and theoretically achievable (subject to capacity constraints).
 - The Applicant's case for peak spreading seems optimistic, but also that the LePAs forecasts seem overly negative. A seasonality ratio in the region of 1.09/1.10 for the NRP and future baseline case respectively may be achievable.
 - For aircraft size the 9mppa uplift may be slightly overoptimistic, although not to a large degree.
 - There is a natural ceiling on load factors, and 90%-91% for this ceiling seems appropriate.

4.4. CAPACITY AND CAPABILITY

AIRPORT

- 4.4.1. Discussions on airport capacity largely resolved themselves during the Examination between the Applicant and the LePAs, as is evident from the Statement of Common Ground between the Applicant and the LePAs [REP9-096]. It was agreed between these parties that:
- Future Baseline

- The current runway has a capacity at peak hours of 55 movements per hour (mph) and that the number of hours in a given day that it handles this number of movements can increase.
- The current runway (and airfield) can achieve 954 ATMs on a busy day (although the LePAs note delay levels are relatively high).
- Northern Runway Project
 - It is agreed that the airfield is capable of delivering 1132 ATM on a busy day by 2038 with a peak runway declaration of 69 mph (although the LePAs note very limited headroom for the number of ATMs to be increased).
 - Such movements can be achieved in part due to a range of performance improvements planned to be implemented by the Applicant [REP1-054].
 - In relation to Aerodrome Certification, the CAA see no issue to the approval of the project [REP3-068]; and have issued a letter of 'no impediment' to the same purpose [REP9-086].
- Both cases – Future Baseline and Northern Runway Project
 - New initiatives to improve resilience have been put in place, or are planned by the end of 2025, including an additional Rapid Exit Taxiway (RET), Time Based Separation (TBS), Reduced Departure Separation (RDS) and enhanced departure sequence capability projects. The LePAs note that the effectiveness of these is not yet known and that the new RET cannot be used in dual runway operations.

4.4.2. easyJet submitted a Relevant Representation [RR-1256] stating the following:

- Gatwick Airport Limited (GAL) is not best placed to deliver an increase in capacity at LGW given current performance. GAL is consistently ranked in the lower half of punctuality rating in relation to average arrival and departures of the 33 airports reported by Eurocontrol.
- GAL has provided sub-standard Air Traffic Control services in 2022 and 2023 demonstrating a clear inability to cope with the current levels of traffic, let alone an increase in capacity with a second runway.
- Current infrastructure plans do not sufficiently account for increased capacity. ACL have demonstrated that current critical infrastructure at LGW is full or close to full during the morning peak hours. This makes it impossible to add more aircraft or up gauge to larger aircraft with more seats. easyJet is concerned that GAL has not shared any details relating to the plans, design, or scope of infrastructure needed to support the northern runway nor has it provided any timing for delivery.
- LGW's current operations have several underperforming elements which are struggling at current levels of traffic and would be exacerbated by increased traffic from a northern runway. These are:
 - Security: there is no capacity to expand on the current infrastructure and no increase in resources at peak times leading to long queues and delays. easyJet is not aware of any contingency that can be deployed.
 - Immigration: is full at certain times in both terminals. This is driven by the UK Border Force (UKBF) and there is no clear plan on how UKBF will support a significant increase in passenger numbers, nor if the current terminal infrastructure could accommodate further e-gates or desks.
 - Stand capacity: aircraft stand and coaching gate capacity are at maximums during certain times of the day. Delivery of pier service levels in line with

GAL targets is only made possible by an extensive programme of aircraft towing during first wave operations. It is not understood how GAL would mitigate against further ground delays as a result of more aircraft than stands/gates available. Only an extensive programme of taxiway work to improve airfield flow could mitigate this.

- Night Movements: are relied on by carriers that operate at LGW. Further traffic that increases congestion are likely to cause delay that further compound the night movement limitations.

4.4.3. At D1 the International Airlines Group and British Airways (IAG & BA) submitted a Written Representation [REP1-198], noting that in 2023 IAG were the second largest operator at Gatwick and stating that:

- Gatwick's current operational performance is poor and we have significant concerns about performance at its current capacity, let alone its ability to successfully manage the proposed increases brought by the Proposed Development.
- The airport is a long way from operating consistently to its targets.
- Significant investment is required in infrastructure to reduce airfield and stand congestion, taxi times and accommodate the volumes being processed now.
- To achieve the passenger numbers suggested by Gatwick significant new terminal capacity would need to be added to the airport. Such a level of passenger growth could not be accommodated either in the existing terminal infrastructure or without material investment in new infrastructure.
- ATC provision at Gatwick over the past two years has not met the required standard and the operation in the tower has not been resilient to resource disruption.

4.4.4. In response the Applicant noted [REP1-048], [REP1-056], [REP3-072] that “despite recent challenges, London Gatwick continues to be demanded by a variety of carriers as is demonstrated by the over subscription of slots.” It noted that NATS have been the ATC provider at LGW since 2022 and training is being expedited. The Applicant drew attention to the new resilience initiatives being put in place and stated that the NRP would improve resilience and reduce delays. Delays during 2023 were partly attributed to European airspace constraints and signposting to terminal improvements as part of the Proposed Development were included. An air traffic and airfield infrastructure optimisation program has also been implemented.

4.4.5. Questions were asked at ISH7 concerning terminal capacity of the NRP. In response Gatwick noted [REP4-037] that the primary limiting factor in the North Terminal is pier served stand availability. They noted that a current project underway to construct Pier 6 would deliver eight additional pier stands and that the south terminal had a later peak than the north terminal so that terminal rebalancing could take place. The Applicant did not recognise the description of long queues and delays at security, noting that the airport consistently exceeds its target for passengers to wait for no more than five minutes 95% of the time. It was also noted that there is latent capacity in the departing baggage system, check in, and security to accommodate the planned uplift in passengers at peak times.

4.4.6. On 14 August 2024 the ExA issued questions under Rule 17 [PD-027] asking questions directly of easyJet and IAG & BA whether they wished to respond to the Applicant. IAG & BA stated that they had had various productive meetings with Gatwick and that they expected these to continue. They noted that their operational concerns remained although they appreciated Gatwick's engagement [REP9-202]. easyJet [REP9-371] reaffirmed its previous comments and continued to express concern that the issues that they raised would not be improved by the Proposed

Development. They note that the plans for aircraft stands continue to show a bias toward remote operations which add to congestion and complexity.

ExA's Conclusion on Airport Capacity

- 4.4.7. The ExA noted the agreement between the Applicant and the LePAs on much of the relevant capacity issues. However, the representations from easyJet and IAG & BA are noteworthy, particularly as these companies are currently the largest operators out of the airport.
- 4.4.8. Questions at ExQ1 and ISH7 focused on terminal and stand capacity. In particular the answer to ExQ1.GEN1.17 [REP3-091] provided details of capacity and service levels for the north and south terminals. The ExA considers that these responses satisfactorily answered the queries of easyJet in terms of terminal capacity and proved that the Proposed Development would, based on the forecasts provided, provide a suitable passenger experience and adequate terminal infrastructure capacity for the Proposed Development.
- 4.4.9. The construction of Pier 7 and associated direct stands would assist airfield matters in the NRP case. However, the outstanding concerns of easyJet and IAG & BA for remote aircraft stands are relevant, remain outstanding and carry weight. For the future baseline case in particular, the ExA considers that there has to be a doubt that the airfield infrastructure would be able to efficiently deal with the traffic forecast. Lengthy and regular delays would likely have an effect on passengers' desire to travel from the airport and could potentially lead to airlines moving to alternative airports, although the clear demand for slots is noted in this regard.

OTHER FUTURE BASELINE CAPACITY ISSUES

- 4.4.10. Paragraph 3.3.3 of the Scoping Opinion [APP-095] states that "The ES should include a description of the baseline scenario with and without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge."
- 4.4.11. Paragraph 3.3.6 goes on to state that "The ES should clearly define the 'future baseline', explaining any assumptions made in relation to the growth in passenger numbers (and the physical airport itself) in the absence of the Proposed Development (paragraphs 3.2.4 – 3.2.6 of the Scoping Report). The extent to which the parameters in Table 4.6.1 are associated with or reliant upon other consents and assumptions are not fully explained. In particular the ES should set out what (if any) additional consents are required to enable this growth since, it is unclear if any specific additional consents (beyond those listed in section 4.3 of the Scoping Report) would be required to allow for increased passenger numbers from 46mppa to 61mppa as outlined in table 4.6.1 of the Scoping Report."
- 4.4.12. Finally, paragraph 3.3.7 states that "*The Applicant should be careful to ensure that the 'future baseline' is established relevant to suitably robust assumptions and is fully representative of the likely outcomes in the absence of the Proposed Development.*"
- 4.4.13. As stated in paragraph 3.3.3 the ExA has tried to establish whether the baseline and future baseline scenario promoted by the Applicant relate to natural changes at the airport and how much reliance is placed on the need for additional consents to deliver the changes anticipated in the assessment. During the Examination we explored the practical consideration in the delivery of the Applicant's future baseline

scenario. We looked at the following areas where we thought more evidence was required to be certain the future baseline scenario was the result of natural changes and not reliant on other consents. We considered the following areas:

- Traffic levels and congestion; and
- Hotels.

Traffic levels and congestion

- 4.4.14. Paragraph 13.5.15 of the Transport Assessment (TA) [REP3-058] states that “The VISSIM outputs for the 2047 future baseline indicate a network which has very limited capacity to accommodate additional demand by this time, leading to poorer overall performance and significant congestion at key locations, both within the Airport network and on the strategic and local network.” We asked about whether this significant congestion and poor performance could restrict levels of traffic growth to the airport and thus be a practical restraint on airport growth. The Applicant [REP1-059] stated that it *“has confidence in the transport modelling and the CIP [Capital Investment Programme] highway improvements at the North and South Terminal roundabouts will deliver additional capacity that assists the airport to deliver the growth assumed, in the absence of the Project.”*
- 4.4.15. The signalisation of the North and South Terminal roundabouts which is already planned in the airport’s CIP will alleviate some congestion issues. However, as paragraph 13.2.5 of the TA confirmed these works were included in the future baseline modelling. As a consequence, the comments in paragraph 13.5.5 about congestion relating to the future baseline traffic levels remain valid. It is also worth noting that in paragraph 13.5.14 of the TA, *“The PM peak in 2047 shows significant queuing and delay for traffic on the A217 and Povey Cross Road approaching Longbridge Roundabout.”* This demonstrates that the predicted congestion will affect a larger area than just the two terminal roundabouts.
- 4.4.16. Given the evidence presented in the TA, the ExA considers that it is likely that there could be significant congestion at key locations in the future baseline scenario.

Hotels

- 4.4.17. We asked in question ExQ1.GEN.1.24 [PD-012] why the future baseline scenario does not require any additional hotels. The Applicant [REP3-091] responded *“It is likely that further hotels will be required as the airport passenger numbers grow in the baseline, and these could be provided on or off-site and applications will be made by the Applicant or the market as appropriate.”*
- 4.4.18. To clarify the situation, we asked the Applicant in question ExQ2.GEN.2.13 [PD-021] to explain why:
- “If hotel capacity will be required to accommodate future baseline growth in passenger numbers and no planning consent exists for such an increase is this not a practical constraint on the ability of the airport to accommodate any theoretical increased passenger growth represented by the future baseline position?”*
- The Indicative Construction Sequencing [REP2-016] shows that all the proposed hotels will be constructed in advance of the opening of the dual runway. Is this a further indication that the airport in either scenario needs additional hotel accommodation to satisfy demand in any significant passenger growth?”*
- 4.4.19. The Applicant [REP7-083] responded repeating that further hotel capacity is likely to be needed and “If there is an increase in demand from passengers, the market

signal that sends will encourage further capacity to be delivered around the airport through TCPA [Town and Country Planning Act] applications.” It goes on to state, “Any short term constraint would be met by changes in the pattern of those who use hotels and those who travel from home or stay further afield. It would not impede the growth of passenger numbers at the airport.”

- 4.4.20. The ExA considers that increasing hotel provision by means of separate planning applications cannot be regarded as a natural change in the baseline environment. The ExA also considers that the proposed delivery of the new hotels in advance of the start of dual runway operations further indicates that hotel provision would be an element of the airport’s operational success. The Applicant fails to explain that given the Proposed Development subsumes the future baseline case, why early delivery of the proposed hotels does not indicate that the new hotels are also part of the operational requirement in the future baseline scenario.
- 4.4.21. The ExA is not convinced that the Applicant has fully explained how the future baseline hotel requirements could be met by any natural changes in the baseline environment.

ExA’s Conclusion on Other Future Baseline Capacity Issues

- 4.4.22. Above we have noted that it is likely that there could be significant road traffic congestion levels at key locations in the future baseline scenario, and that we are not convinced that the Applicant has fully explained how the future baseline hotel requirements could be met. These two issues carry some weight in respect of whether the future baseline, as stated by the Applicant at 67mppa, is realistic and achievable.
- 4.4.23. It is difficult to say what would happen to the propensity of potential passengers to use Gatwick airport should road traffic congestion be severe, or that no hotel rooms were available (or the ones that were had a very high price). Some passengers may leave earlier to get to the airport, some may use public transport, and some may travel on the day of travel rather than staying overnight the day before an early morning flight. However, the combination of both factors may also dissuade some passengers from using the airport, causing them to instead choose an alternative airport to travel from. Passenger disquiet may also influence airlines to locate new services or routes at other more accessible airports where hotel rooms are more plentiful.

AIRSPACE

- 4.4.24. Various discussions (for example, at ISH9 [EV20-001]) took place during the Examination concerning airspace and the need or otherwise for airspace change proposals (ACP) as a result of the Proposed Development, the interlinkages between the two issues and future plans. The ExA asked a question under Rule 17 [PD-027] asking for a final update on airspace change/ modernisation.
- 4.4.25. The CAA [REP9-086] confirmed that the Proposed Development would not constitute a change in airspace design since the conventional Standard Instrument Departure routes (SIDs) for the current northern standby runway, which are already notified, would continue to be used under the proposal. The SoCG between the Applicant and NATS En-Route Limited (NERL) [REP9-099] confirms that no airspace change is required to the London Terminal Control Area route network to enable the Proposed Development.

- 4.4.26. There was also discussion over any implications of the Proposed Development for the future airspace strategy implementation (FASI) programme, co-sponsored by the DfT and the CAA and specifically the southern element of this project (FASI-S). Within this scheme are various elements, including the London Airspace South (LAS) element. The CAA [REP9-131] describe LAS as the first phase of airspace modernisation proposed for deployment in the south-east of England, and states that the proposed LAS deployment includes two of the south-east cluster ACPs. They note that one is sponsored by Gatwick to upgrade the arrival and departure routes below 7,000 ft. to the south of the airport, and the other is sponsored by NERL to upgrade the route network and airspace structure above 7,000 ft, including the airborne holds serving Gatwick. They noted that the proposed LAS is a relatively simple airspace change that can be deployed sooner than the rest of the south-east of England, realising benefits earlier.
- 4.4.27. NERL noted [REP9-161] that stage 3 of the airspace change process for FASI-S was underway and that further consultation was due in Autumn 2024. For LAS NERL noted that public consultation on this aspect would commence around Quarter (Q)1/ Q2 2025 with the target window for deployment being Q1 2027 to Q4 2028.
- 4.4.28. While the LePAs [REP9-096] agree that the NRP does not directly require an airspace change to facilitate dual runway operations, they note that the growth of air traffic across the London system as a whole (including the NRP) has prompted FASI-S and the Applicant part-sponsored LAS suggests some linkage between the NRP increased traffic and the need for airspace change. Detailed comments were made over the increased use of certain routes, including 'WIZAD' and the potential for airspace to become more congested, leading to more delays at airports.
- 4.4.29. easyJet [RR-1256] state that UK airspace modernisation needs to be completed before the airspace above London takes on additional traffic, and that failure to modernise the airspace coupled with increased traffic over London will result in delays for passengers, increased operating costs, and excessive fuel burn creating higher emissions in the south-east region. This would be further exacerbated by additional capacity added through the Northern Runway if this problem is not addressed.
- 4.4.30. IAG & BA [REP1-198] state they have significant reservations about the current ability of airspace around London and the south-east to cope with the levels of additional capacity proposed, noting that the costs to airlines of disruption are excessive and it is very challenging to successfully deliver an on-time schedule with the current levels of performance.
- 4.4.31. CAGNE [REP8-146] note that the NRP would result in a significant growth of flights and consider that this would not be possible without FASI-S, noting the representations of IAG & BA and easyJet. They note that at Dublin Airport [REP2-070] new flightpaths were used from those assessed in the ES without any noise assessment undertaken and the CAA seems to assess the effects of the NRP on ACP without an increase in aircraft movements.
- 4.4.32. The Applicant noted [REP9-114] that the environmental impacts of Gatwick's Airspace Modernisation project, as with all airports participating in the Airspace Modernisation programme, will be assessed under the CAA's regulated airspace change process and the airspace design options and the potential configurations that may result at this stage of Gatwick's airspace change project mean they are not yet able to be assessed cumulatively with the Proposed Development.

ExA's Conclusion on Airspace

- 4.4.33. Both the CAA and NERL state that the Proposed Development would not necessitate an airspace change and the LePAs agree that one is not needed as part of the DCO application. However, it is also clear to the ExA that various airspace changes are in process and that these are required due to both the current and future airspace requirements of the south-east and the London system. The ExA considers that part of these future requirements will be the growth of aviation traffic in the south-east and it is inevitable that the NRP (and baseline case) would feed into this.
- 4.4.34. The CAA airspace change process is a separate regulatory regime to the DCO application and this will consider the environmental implications of any such changes (including for FASI-S and LAS). Environmental impacts of the proposed increase in flights proposed as part of this application are considered in the relevant chapters of this Report.
- 4.4.35. In respect of the concerns of easyJet and IAG & BA the ExA notes that the target date for deployment of LAS is 2027-2028, prior to the proposed opening of the NRP.

4.5. ExA's CONCLUSION ON THE PRINCIPLE OF THE PROPOSED DEVELOPMENT AND THE NEED CASE

- 4.5.1. In the Policy Conclusion we concluded that the Proposed Development would involve works to an existing runway, and that the scale of the Proposed Development falls within the MBU policy. However, we also considered that to receive the benefit of such policy support requires that the need for the Proposed Development is shown to be additional to, or different from the need that would be met by the LHR NWR scheme.
- 4.5.2. While we consider that need in general does not need to be demonstrated by the Proposed Development, it is clear from the ANPS, the work by the Airports Commission preceding this national policy statement, and by the DfT forecasts from 2017, 2022 and 2023 that there is a nationally recognised need for aviation development, particularly in the south-east of England. It is clear too that the current capacity at London Airports falls far short of this need.
- 4.5.3. The ExA are content that the need that has been shown to be present for Gatwick's growth is both largely additional to, and different from the need that would be met by the LHR NWR runway scheme. Gatwick is dominated by LCC traffic, a trend that is likely to largely continue and is a sector of the market that LHR does not serve to any great extent.
- 4.5.4. Transfer traffic is not forecast to grow significantly under the Proposed Development and while some long-haul traffic may be attracted to Gatwick which would have otherwise gone to Heathrow, this would likely revert to that airport as and when the NWR scheme opens, as Heathrow's economies of scale and structural advantages to this marketplace would remain.
- 4.5.5. We have concluded that the forecast growth in the NRP may not be as rapid as predicted by the bottom-up forecasts but it would likely be 'quicker' than the top-down forecasts presented. This would lead to the benefits of the NRP in the 'early years' being overstated to a small degree, but this would not be significant and would be a relatively short-term effect.

- 4.5.6. In terms of the future baseline and NRP forecasts, the ExA is of the view that these are overly ambitious and unlikely to be realised in the timeline forecast. We are also of the view that conversely the LePAs forecasts are potentially too pessimistic.
- 4.5.7. On the different elements of forecast growth (for both the baseline and the NRP cases) we consider:
- Peak Growth – The Applicant’s conclusions are agreed with.
 - Peak Spreading – A ratio of around 1.09/1.10 for the NRP and baseline case respectively may be achievable.
 - Aircraft Size - We agree with the Applicant with some reservations over the specifics of airlines up-gauging aircraft just because of Gatwick’s constrained nature.
 - Load Factor – A ceiling of 90-91% for load factor (as opposed to the Applicant’s 92% by 2047) seems appropriate based on the evidence provided.
- 4.5.8. In terms of airport capacity, we have concerns over the ability of the airport’s airfield infrastructure to be able to provide for the stated baseline case without issues, although such concerns are significantly less for the NRP case. Similarly, we have some doubts over the ability of ‘external’ infrastructure, such as surface access and hotel provision in the future baseline scenario, although we acknowledge that the behaviour of passengers in the face of such issues is difficult to gauge fully. In terms of airspace we note that airspace modernisation is in train and elements of this should be in operation prior to the predicted opening date of the NRP.
- 4.5.9. The ExA does not have access to the relevant modelling tools or the detailed aviation forecasting expertise of GAL or the LePAs consultants. Nevertheless, on the basis of the evidence submitted and taking all the above into account, we are of the view that a likely outcome by 2047 would be in the region of 60 to 61mppa for the future baseline and 76 to 77mppa for the NRP. This results in a delta of around 16 to 17mppa, larger than the Applicant’s prediction of 13mppa.
- 4.5.10. This is an increase in the delta of around 23-30% higher than the Applicant’s prediction. The implications of this are analysed in the individual chapters. However, it is noted that the Applicant considered similar numbers; gaps of 18mppa and 19.7mppa (from the LePAs high and low cases) and of 15mppa (from their own alternative sensitivity test) and the ExA’s figures sit in the middle of such figures.
- 4.5.11. We consider that with the NRP Gatwick could reach 80.2mppa in due course, sometime after 2047. Similar to our conclusions above about the rate of growth in early years, we are of the view that this difference would not be significant and concur with the Stansted decision conclusions in terms of speed of growth - that if ultimately it takes the airport longer than expected to reach anticipated levels of growth, then the corresponding environmental effects would also take longer to materialise or may reduce due to advances in technology that might occur in the meantime.
- 4.5.12. For the Proposed Development, due to the need for aviation capacity as outlined and supported by the ANPS, and due to the fact that we have found that the need that the proposal would partially satisfy, would be additional to, and different from that which would be met by the Heathrow NWR scheme, we ascribe moderate weight to matters relating to Need and the Case for the Proposed Development in favour of the Order being made.

5. TRAFFIC AND TRANSPORT

5.1. INTRODUCTION

- 5.1.1. This Chapter considers the effects of the Proposed Development in relation to traffic and transport. The policy considerations relevant to the Examining Authority (ExA) consideration of traffic and transport are set out in Chapter 3.
- 5.1.2. In paragraph 4.5.9 of this Report, we set out our conclusion that we are of the view that a likely future baseline passenger growth by 2047 would be in the region of 60 to 61mppa and 76 to 77mppa with the Proposed Development. This results in a difference of around 16 to 17mppa, larger than the Applicant's prediction of 13mppa. In assessing the traffic and transport effects below the ExA has taken these differences into account.

5.2. THE APPLICATION

- 5.2.1. The Applicant's assessment of traffic and transport matters was primarily contained within the Transport Assessment (TA) [REP3-058] and Chapter 12 of the ES [APP-037]. The Applicant's Surface Access Commitments (SAC) [REP9-043] contained the assurances, which would be secured by the Development Consent Order (DCO) to deliver the surface access outcomes as described in both the TA and Environmental Statement (ES) Chapter 12.

Transport Assessment

- 5.2.2. The TA [REP3-058] summarises the transport network and includes the requirements set out in paragraph 5.10 of the Airports National Policy Statement (ANPS), which states that the implications of airport expansion on surface access network capacity should be assessed using Transport Analysis Guidance (TAG) methodology, and National Highways, Network Rail and highway and transport authorities, as appropriate, should be consulted on the assessment and proposed mitigation measures. The assessment distinguishes between the construction and operational stages for the Proposed Development as required.
- 5.2.3. The TA was supported by the following annexes:
- TA Annex A – Figures [APP-259];
 - TA Annex B – Strategic Transport Modelling Report [APP-260];
 - TA Annex C – VISSIM Forecasting Report [APP-261];
 - TA Annex D – Station and Shuttle Legion Modelling Report [APP-262]; and
 - TA Annex E – Highway Junction Review [REP3-060].
- 5.2.4. The TA provided the Applicant's assessment of the following:
- current transport networks – operation and performance;
 - demand forecasts for both the future baseline and the Proposed Development;
 - SAC for the Proposed Development;
 - rail, railway station and inter-terminal shuttle operation;
 - bus and coach operations;
 - strategic and local highway network operation;
 - construction operations;
 - freight, cargo and logistics operations; and
 - consideration of resilience, reliability and future trends.

Transport Modelling

- 5.2.5. In terms of surface access, the modelling of the transport impacts of the future baseline and the Proposed Development are considered in the TA [REP3-058].
- 5.2.6. The TA reported on a suite of strategic modelling tools. The suite was comprised of three core models:
- the demand model – which dealt with the distribution and travel mode of non-airport demand and the travel mode for airport demand (employees and passengers);
 - assignment models – which established the likely routes taken by travellers to and from the airport; and
 - simulation models – which were used for the detailed operational assessment of transport network performance.
- 5.2.7. The public transport assignment model included models for both the rail network and the bus and coach network. The rail model extended from the Sussex Coast to central London and northwards to locations such as Stevenage, Peterborough, and Cambridge. The bus and coach model included all bus services operating in the area around the Airport together with nationwide coach services.
- 5.2.8. The strategic highway assignment model used the industry standard Simulation and Assignment of Traffic to Urban Road Networks (SATURN) software and was developed from National Highways' South East Regional Transport Model (SERTM), refining that model locally to add detail to the modelled network around the Airport. The highway model covered a wide area of south and east England, with increased detail in an area bounded approximately by Brighton, Chichester, Guildford, Woking, the northern arc of the M25, Dartford, Sevenoaks, Tonbridge, Tunbridge Wells, and Hastings.
- 5.2.9. A highway microsimulation model was developed in VISSIM software for the network in the immediate vicinity of the Airport, extending from M23 Junction 9 to Longbridge Roundabout, including North and South Terminals, and along the A23 southwards into north Crawley. This was used to provide greater detail on the operation of the highway network in this area.
- 5.2.10. A Legion simulation model was also used to examine the performance of Gatwick Airport railway station. This was developed from a Network Rail model which was originally used to support the Gatwick Station Project, which was completed in early 2024.
- 5.2.11. The transport modelling was based on data originally collected in 2016. During the period of 2018 to 2019, the introduction of the Smart Motorways Scheme between Junctions 8-10 on the M23, and changes in railway timetabling through 2018 and 2019 led to a period of variability in access to the Airport. The year 2016 was considered the best period pre-Covid as a base for the modelling.
- 5.2.12. A calibrated and validated transport model was developed for a modelling baseline 2016 year. The assessment considered the performance of the transport networks in the future baseline scenario and with the Proposed Development, for the following years:
- 2029, representing the assumed first full year of operation of the new northern runway;

- 2032, representing an interim assessment year which assumes that all arrival and departure slots on the new runway have been filled in the three years since runway opening and that the highway works which form part of the Proposed Development had been completed by this year; and
- 2047, representing 15 years after the completion of the highway works, reflecting a requirement in the Design Manual for Roads and Bridges to assess the impacts of a new highway scheme at this time horizon. This scenario also reflects continued steady growth in air passenger numbers between 2032 and 2047.

5.2.13. The assessment considered the operational phases of the Proposed Development in each of these years, by comparison with the situation in the same year in the future baseline. It also considered two construction phases for the Proposed Development: one during the peak of airfield construction prior to the northern runway opening and one during the most complex phase of highway construction after the new runway has opened.

5.2.14. The assessment was based on a busy June weekday. This represented the conditions anticipated during non-school holiday periods of the year, when non-airport travel demand would be at its highest. Daily airport demand on a peak June weekday would be exceeded on fewer than 20 weekdays in a year, generally in the school summer holiday period when background non-airport traffic would be around 2% to 6% lower than in June. The Applicant considered that the use of a June weekday was an appropriate and reasonable case for the assessment.

5.2.15. The TA concluded the following:

- Rail - The rail crowding assessment undertaken indicated no mitigation was required on rail services. In terms of the recently improved Gatwick Airport railway station, it found that no further improvements would be required to mitigate the increased usage as a result of the Proposed Development.
- Bus and coach services - That some improvements to both coach and local bus services are required, and these would be secured by commitments in the SAC.
- Network performance - The TA concluded in paragraph 18.5.10 that *“Although some parts of the network would remain busy, the overall operation of the highway network with the Project and the associated highway works would be no worse than in the future baseline despite the additional demand arising from the Project.”* The highway improvement works associated with the Proposed Development were as follows:
 - South Terminal - new highway layout providing full grade separation;
 - Enhancement of the eastbound M23 Gatwick Spur as part of the South Terminal roundabout improvements.
 - North Terminal - new highway layout including partial grade-separation, improving traffic flow. The Airport Way eastbound connection from North Terminal roundabout would be removed with eastbound traffic to travel via a new signal-controlled junction on the A23 London Road and an enhanced eastbound diverge connection onto Airport Way.
 - Improvements to Longbridge Roundabout where the A23 meets the A217.
 - Active Travel - New and some enhancements to active travel routes for pedestrians and cyclists.
 - Construction - the impacts of construction traffic were not considered to create significant impacts on the highway network. Although detailed design had not yet been undertaken the Applicant submitted an outline Construction Traffic Management Plan (oCTMP) [REP9-035] and an outline Construction

Workforce Travel Plan (oCWTP) [REP9-033] that would be developed to provide management of construction traffic and workers.

ES Chapter 12 Traffic and Transport

- 5.2.16. In addition to the network capacity analysis presented in the TA the Applicant also submitted ES Chapter 12 [REP3-016] that examined the potential environmental effects of the Proposed Development on traffic and transport. Information from the TA was used to inform the analysis presented in Chapter 12. This chapter was additionally supported by the following documents:
- ES Chapter 12 - Traffic and Transport Figures [APP-059];
 - ES Chapter 12 - Appendix 12.3.1 Summary of Stakeholder Scoping Responses Traffic and Transport [APP-152];
 - ES Chapter 12 - Appendix 12.9.1 Highway Flows and Driver Delay Review [REP3-049]; and
 - ES Chapter 12 - Appendix 12.9.2 Rail Passenger Flows [REP3-051].
- 5.2.17. The assessment shows that even given the existing high traffic flows on the strategic highway and major road network, the Proposed Development was not expected to generate substantial traffic flows beyond the network in the immediate vicinity of the Airport. The proposed highway improvements would mitigate the impacts on the adjacent highway network. Consequently, ES Chapter 12 did not identify any residual likely significant effects.

Surface Access Commitments

- 5.2.18. Gatwick Airport has an existing Airport Surface Access Strategy (ASAS), published in October 2022 that aims to increase sustainable travel choices for passengers and staff alike. Rather than submitting a revised ASAS the Applicant submitted the Surface Access Commitments (SAC) [REP9-043] to commit to a specific set of surface access outcomes that would have separate scrutiny, monitoring and reporting outside of the existing ASAS process. The SAC does not include the highway improvements that form part of the design of the Proposed Development which are intended to be secured by the draft DCO (dDCO).
- 5.2.19. The SAC contains sixteen commitments that seek to:
- Achieve specific passenger and staff sustainable travel mode shares;
 - Implement certain measures and interventions which the undertaker would use to achieve the mode share commitments; and
 - Implement and follow a specified monitoring and reporting process in relation to the SAC to provide assurance that the commitments are being complied with.
- 5.2.20. The Applicant's commitments can be summarised as:
- Mode Share commitments (by the third anniversary of the commencement of dual runway operations):
 - Commitment 1 - A minimum of 55% of air passenger journeys to and from the Airport to be made by public transport;
 - Commitment 2 - A minimum of 55% of airport staff journeys to and from the Airport to be made by public transport, shared travel and active modes;
 - Commitment 3 - A reduction of air passenger drop-off and pick-up car journeys at the Airport to a mode share of no more than 12% of surface access journeys; and

- Commitment 4 - At least 15% of airport staff journeys to and from the Airport where those staff journeys originate or conclude within 8km of the Airport (such “staff journey” being a single one-way trip to or from the Airport) to be made by active modes.
- Mode Share commitments (by the first anniversary of the commencement of dual runway operations):
 - Commitment 1A - A minimum of 54% of air passenger journeys to and from the Airport to be made by public transport; and
 - Commitment 2A - A minimum of 54% of airport staff journeys to and from the Airport to be made by public transport, shared travel and active modes.
- Intervention commitments:
 - Commitment 5 – regional express bus and coach services;
 - Commitments 6, 7 and 7A – enhanced local bus services;
 - Commitment 8 and 8A – consultation with the Transport Forum Steering Group (TFSG) about parking increases and also commitment to fund effective parking controls on surrounding streets.
 - Commitment 9 – air passenger parking charges;
 - Commitment 10 – forecourt charges;
 - Commitments 11 and 12 – staff travel;
 - Commitment 12A - Ultra-low and Zero Emission Vehicles;
 - Commitment 13 – Sustainable Travel Fund;
 - Commitment 14 – Transport Mitigation Fund;
 - Commitment 14A – Rail Enhancement Fund;
 - Commitment 14B - Rail Monitoring and Enhancement Plan; and
 - Commitment 14C - TFSG terms of reference;
- Monitoring and Reporting:
 - Commitment 15 – monitoring information;
 - Commitment 16 – Annual Monitoring Report (AMR), disputes, SAC Mitigation Action Plans (SACMAP) and role of the Secretary of State (SoS) for Transport in the process.

5.2.21. The Applicant considered that the SAC would deliver the specified mode shares that the transport modelling was based on. The Applicant also maintained this was a robust method of ensuring the traffic and transport effects would be within those assessed in the application.

5.3. ISSUES CONSIDERED DURING THE EXAMINATION

5.3.1. There were over 4800 Relevant Representations (RR) submitted of which in excess of 1800 had concerns about the traffic and transportation impacts of the Proposed Development. Having taken these into account alongside the submitted Application documents, the ExA considered that traffic and transportation would be one of the initial principal issues for the Examination. The Initial Assessment of Principal Issues (IAPI) is set out in Annex C of the Rule 6 letter [PD-009].

5.3.2. A brief summary of the RRs relating to transport is set out in Section 3 of this Report and the ExA has read and taken account of all of the representations made in both the RRs and all of the written and oral representations made throughout the Examination. In headline terms the RRs identified the following mostly general concerns:

- increased levels of traffic;
- the ability of transport infrastructure to accommodate the additional traffic associated with the Proposed Development;
- the effects of increased traffic and potential “rat running” through villages and towns near Gatwick;
- increased parking problems in the vicinity of the airport;
- access to the airport by sustainable modes of travel;
- the effectiveness of the Applicant’s proposed access solutions;
- traffic during the construction period of the Proposed Development;
- the ability of the rail services to accommodate additional passengers.
- the lack of coach and rail services to serve some communities; and
- pedestrian and cycle access to the Proposed Development.

5.3.3. In addition to these concerns expressed in the RRs, we have considered all of the issues arising from the Local Impact Reports (LIR) and all of the Written Representations (WR) submitted.

5.3.4. From all of the above and considering the Applicant’s submissions we identified that the following key issues for the Examination were:

- transport modelling and network capacity;
- environmental effects of transport in the Environmental Statement Chapter 12;
- Surface Access Commitments;
- parking;
- active travel issues; and
- construction traffic management.

Transport Modelling and Network Capacity Issues

5.3.5. Prior to and throughout the Examination the Applicant was in ongoing dialogue with National Highways (NH), local highway authorities (LHA), Network Rail (NR) and train, bus and coach operators. Prior engagement with these parties was used by the Applicant to inform development of the TA [REP3-058].

Post-Covid Transport Model Testing

5.3.6. To reflect that the Applicant’s transport modelling had been undertaken using a base year that was pre-Covid, we asked the Applicant to undertake a review of its transport modelling in consultation with relevant stakeholders [PD-006]. The Applicant’s initial response [AS-121] demonstrated that there had been both a reduction in background highway and rail demand compared with that assessed in the Application. This reduction was largely due to a reduction in business and commuting travel post-Covid.

5.3.7. Additionally, the Applicant [REP5-068] submitted a commentary of the implications for the ES assessment in terms of traffic and transport effects relating to the post-Covid changes in traffic flows. It stated that this could lead to reductions in forecast background highway and rail demand of up to 14% by 2047 compared with that assessed in the application modelling. The Applicant stated that this post-Covid assessment of the changes in traffic flows did not indicate any new or materially different significant effects.

Highway Sensitivity Testing

5.3.8. The Joint Surrey Councils (JSCs) [REP6-101] in response to a sensitivity test that the Applicant shared with them, stated that *“The results inevitably lead to more vehicles on the SRN and LRN, (approximately 7% more GAL related road traffic in*

2032)”. As a result, in question ExQ2.TT.2.10 [PD-021] we asked the Applicant to submit the details of this sensitivity testing.

- 5.3.9. The Applicant [REP7-092] submitted some details of the sensitivity test that considered a 10% increase in airport traffic on a busy June day. The Applicant considered that this was a proxy sensitivity test for any failure to meet mode share targets in the SAC. As the Applicant asserted that failure to meet mode share targets would not necessarily mean that traffic levels would increase in the same proportion it did not evidence to what degree this 10% uplift in airport related traffic would equate to the percentage by which mode shares would change.
- 5.3.10. The Applicant’s submitted commentary based on the sensitivity test done on the strategic highway network modelling concluded that this scenario would be unlikely to change the overall conclusions in either the TA or ES Chapter 12.

Future Baseline Sensitivity Testing

- 5.3.11. The Legal Partnership Authorities (LePAs) and the Applicant agreed some assessment scenarios around different growth forecasts for both the Proposed Development and the future baseline. These scenarios are discussed in paragraphs 4.3.55 to 4.3.57 of this Report.
- 5.3.12. The Applicant [REP7-073], on a without prejudice basis, provided a commentary of the likely effects of the differing growth scenarios on the traffic assessments undertaken as part of their original submission. Despite finding that there could be additional traffic associated with changes in the future baseline of up to 10% at peak periods, this assessment found that using any of the differing growth scenarios would not be likely to give rise to any new or different significant effects to those identified in ES Chapter 12. The ExA are concerned that this assessment was qualitative and there was no quantitative assessment of the possible changes of effects.
- 5.3.13. The Applicant [REP7-073] states in paragraph 5.10.5 that the reduction in demand in the post-Covid modelling tests they had undertaken was broadly similar to the uplift indicated in the sensitivity testing it had done relating to the LePAs future baseline figures, which suggested that under post-Covid conditions that the sensitivity test would be unlikely to produce magnitudes of impact materially different to those identified in the TA. The ExA does not agree that this statement can be supported. The forecast reduction in background traffic post-Covid applies to both the future baseline and Proposed Development traffic levels whereas the ES examines the change between those two levels. Thus, the ExA is not convinced by the Applicant’s assertion that comparison to post-Covid traffic level changes would provide any comfort that the future baseline sensitivity commentary provided would produce any unassessed effects.

Rail Network Capacity

- 5.3.14. NR [REP1-090] expressed concern about the capacity and resilience of the rail network to accommodate levels of passenger growth predicted. Govia Thameslink Railways (GTR) [REP1-185], the main operator on the rail network serving Gatwick, also expressed similar concerns. During the Examination, discussions continued between the Applicant and NR about the impact on the capacity of Gatwick Airport railway station and the rail network serving the airport.
- 5.3.15. We asked the Applicant, NR and GTR in ExQ2.TT.2.7 [PD-021] about outstanding concerns and if any mitigation was proposed.

- 5.3.16. NR (jointly with GTR) [REP7-117] responded outlining concerns about the Applicant's modelling relating to amount of standing passengers/ luggage space at peak times and train service supply assumptions that were unfunded and unlikely to be reliable without further service enhancements.
- 5.3.17. The Applicant [REP7-092] responded saying that it was proposing the following:
- Improvements to Gatwick Airport railway station to better manage queueing at the ticket gatelines as a result of the Proposed Development.
 - A commitment to provide a separate Rail Enhancement Fund (REF) to provide funding for initiatives and measures that would be aimed at improving reliability of the rail network or enhancing the rail network or rail services in support of increasing the use of sustainable transport by passengers and staff.
- 5.3.18. The Applicant also committed to work with NR, GTR and other rail operators to agree suitable interventions that the REF would support.
- 5.3.19. The Applicant [REP7-042] added Commitment 14A to the amended SAC to secure both the REF and improvements to Gatwick Airport railway station to accommodate the additional passenger demand created by the Proposed Development.
- 5.3.20. GTR and NR submitted a joint response at D7 [REP7-117] and after that point only NR made a representation.
- 5.3.21. NR in Item 3.2 of its final Principal Areas of Disagreement Summary Statement (PADSS) [REP9-163] and similarly in the signed SoCG [REP9-092] stated that *"Whilst we have been unable to fully reconcile and agree modelling outputs due to modelling complexity and uncertainty, Gatwick have proposed a number of initiatives which will support the resolution of this issue in the future, including:*
- *Rail Monitoring and Enhancement Plan (Surface Access Commitment 14B).*
- Furthermore, Network Rail are preparing a Demand Forecasting Technical Note for the Brighton Main Line and will work with Gatwick in line with existing collaborative relationships, such as through the Transport Forum and Transport Forum Steering Group to come to a common understanding on route forecasts. It is also noted that the Rail Enhancement Fund, Transport Mitigation Fund and Sustainable Transport Fund (secured in the Surface Access Commitments) could support the delivery of measures in the future.*
- On this basis, NR considers that there is an appropriate mechanism to address the unresolved issues in the future and does not object to the proposals on technical modelling grounds."*
- 5.3.22. NR [REP10-031] withdrew any objection to the Proposed Development.

ExA's Conclusion on Rail Network Capacity

- 5.3.23. We acknowledge the final position of NR with respect to the mitigation offered by the Applicant. However, the ExA has outstanding concerns relating to levels of service and available seating capacity at busy times when passengers have large amounts of luggage that would not necessarily be resolved by the interventions proposed. Given the existing passenger loadings travelling to and through Gatwick Airport railway station we remain unconvinced that the REF and Rail Monitoring and Enhancement Plan as proposed would ensure that the rail network could operate without any congestion or passenger crowding issues as a result of the Proposed Development.

Bus and Coach Network Capacity

- 5.3.24. In the TA [REP3-058] the Applicant reported on the outcomes of its bus and coach network modelling for both airport passengers and staff. The Applicant concluded that they would *“work with operators to develop the detail of the enhanced route network and the funding that is required to support its implementation”*. The Applicant also stated that it would *“regularly discuss progress in the Transport Forum Steering Group (TFSG) which includes the local highway and planning authorities, transport operators and agencies, business and passenger representatives and other interested parties.”*
- 5.3.25. East Sussex County Council (ESCC) [REP1-070] and Kent County Council (KCC) [REP1-079] submitted specific comments relating to improvements to bus and coach services and associated necessary infrastructure at the airport.
- 5.3.26. In addition, several Interested Parties (IPs) expressed concern that the Applicant had not proposed any mitigation in the form of bus priority measures to enable improved bus and coach access to the airport. The Applicant in its closing submissions [REP9-112] in paragraph 12.3.30 stated that *“The modelling and assessment work does not show such measures to be necessary and therefore they have not been included in the SACs”*.
- 5.3.27. Through Commitments 5, 6, 7 and 7A in the SAC [REP9-043] the Applicant proposed both regional and local bus and coach service improvements, a monitoring and reporting process and a minimum £10 million Bus and Coach Service Fund investment to support additional services.
- 5.3.28. ESCC in its final PADSS [REP9-138] stated that *“The Council remain disappointed that bus service improvements have not been secured. However, as a member of the TFSG ESCC is committed to work with GAL through this forum to prioritise funding to enable bus service improvements to come forward to provide sustainable surface access to the airport to/from East Sussex.”*
- 5.3.29. KCC in its final PADSS [REP9-144] reiterated its request about further information as to the capacity of kerb space at the airport for bus and coach services.
- 5.3.30. The Applicant in its closing submissions [REP9-112] stated that a KCC representative would become a member of the TSFG where routes and timetables of supported bus and coach services would be discussed prior to implementation. The Applicant said that as optimisation of kerb space for pick up and drop off at the airport forecourt is within its control it would work with bus and coach operators to ensure maximum efficiency is delivered.

ExA’s Conclusion on Bus and Coach Network Capacity

- 5.3.31. The ExA is conscious that planning effective bus and coach service interventions needs careful planning to ensure that the public transport is both well used, and accessibility is enhanced. We are satisfied that the Applicant adopted an initiative-taking approach to the necessary improvements to the bus and coach network and that this would be secured as part of the SAC in the Recommended DCO (rDCO).

Highway Network Capacity

- 5.3.32. Numerous IPs expressed concerns about the capacity of the strategic road network (SRN) being able to cope with the additional traffic generated by the Proposed

Development. This concern was also about the consequential effects on the local road network (LRN) resulting from a congested SRN.

- 5.3.33. The Applicant's TA [REP3-058] examined the capacity of the highway network in the future baseline and the Proposed Development case. These show that the highway network is busy around Gatwick in both scenarios. The TA concluded that with the proposed highway improvements and the implementation of the SAC secured by the DCO, that the Proposed Development could be accommodated without any severe harm being created.
- 5.3.34. We were concerned that the TA showed that parts of the highway network are congested under future baseline conditions especially in 2047. The Applicant [REP1-059] explained that in its view the levels of congestion would not constrain future baseline passenger growth at the airport. It should be noted that SCC in its final PADSS [REP9-168] reiterated the concern about the congestion on the future baseline strategic highway network and its wish to "*understand the volumes of traffic transferred on to its network and what the impacts of this traffic would be.*" The ExA considers that despite the lack of controls over growth at the airport in the future baseline scenario that growing levels of congestion on the surrounding highway network may serve as a practical constraint on access and thus the airport's growth without any planned highway mitigation in the future baseline.
- 5.3.35. At Issue Specific Hearing (ISH) 4 [EV9-001 and EV9-002] and in ExQ1.GEN.1.30 [PD-012] we asked about the implications around the certainty of the future baseline levels reaching that assessed. From Civil Aviation Authority (CAA) data in 2023 Gatwick passenger throughput had returned to 40.9 million passengers per annum (mppa), which is less than the 2019 peak activity defined in the application of 46.6mppa.
- 5.3.36. Using this most recent 2023 figure, the future baseline forecast increase, without the Proposed Development to 2047 would be 26.3mppa (67.2mppa – 40.9mppa). This compares to the Proposed Development maximum assessed increase in 2047 of 13mppa (80.2mppa – 67.2mppa). The total growth in passenger numbers of the airport from the 2023 level of 40.9mppa to the 2047 level of 80.2mppa with the Proposed Development is 39.3mppa, almost double the 2023 level.
- 5.3.37. We find that in the submitted TA it is not possible to understand how much of the future baseline traffic levels relate to the non-airport traffic or airport traffic. In spite of the Applicant's certainty about the future baseline, the traffic impacts associated with only airport traffic growth in the future baseline were unclear. The Applicant [REP1-059] in paragraph 3.1.7 states "*In response to the ExA's comments on the expectation that the ES should consider the Project against background growth on the network in absence of the Project, the Applicant explained that the background traffic growth model assumes airport growth without the Project because there is no cap on airport growth.*"
- 5.3.38. In its closing statement the Applicant [REP9-112] in paragraph 5.1.4 explains that "*It would not be appropriate to compare growth against a fixed airport baseline as of 2019. It is appropriate to include the 2047 future baseline in the assessment, otherwise it introduces artificial scenarios into the assessment which do not account for airport growth happening in a "without Project" scenario.*"
- 5.3.39. The Applicant seemed to have misunderstood the reasoning for the ExA wanting to understand the reference case traffic (i.e. without any airport traffic in all scenarios). We did not want to compare all development scenarios against a fixed baseline but

wanted to obtain a picture of the overall impact of airport traffic in all assessment years when compared with traffic levels developed from all the non-airport committed development as set out in the TA Annex B [APP-259] Section 9 - Uncertainty Log used to develop the transport modelling for all scenarios. This would have allowed us to understand the impact of all airport traffic growth against all non-airport traffic growth on the whole network. In addition, we would have been better able to understand the levels of traffic growth associated with the passenger growth of 26.3mppa from the present day.

- 5.3.40. In addition, the Applicant [REP1-065] in section 2.3 explained why it had not considered any future baseline uncertainty in the TA because it regarded *“the Airport’s continued operation as “near certain” and it would therefore be included in the future baseline based on the extent of existing consent(s) for the Airport and its associated infrastructure. Accordingly, the forecasts in ES Appendix 4.3.1: Forecast Data Book [APP-075] form the basis of the assumption about future baseline Airport growth.”* ES Chapter 6 - Approach to Environmental Assessment [APP-031] states in paragraph 6.34 *“Whilst there is inherent uncertainty in predicting long term aviation growth, the forecasts presented have been prepared jointly by GAL’s in-house airline relations and marketing and research teams and ICF, one of the UK’s foremost experts in air traffic forecasting.”* The ExA does not consider adopting an approach that the predicted airport growth was *“near certain”* in the TA accords with the stated inherent uncertainty of predicting long term aviation growth accepted by the Applicant in ES Chapter 6.
- 5.3.41. The ExA understands the Applicant’s approach but considers that if the DCO is granted the theoretical future baseline scenario would be subsumed into the Proposed Development scenario. In that case they are not two separate scenarios one following the other, they become one scenario.
- 5.3.42. The ExA’s view as to the future baseline and its level of certainty is discussed earlier in Chapter 4. We consider that there is insufficient evidence that the future baseline as assessed by the Applicant would be a robust picture of the level by which the airport is likely to grow without the Proposed Development. As a result, we are of the opinion that there is sufficient doubt that the TA presents an accurate comparison of the future baseline with the Proposed Development scenario. Given that the gap between the future baseline and the Proposed Development scenarios is likely to be bigger than that assessed by the Applicant, the TA could underestimate the degree of traffic changes and thus call into question some of the resulting professional judgements made between the two about the impacts on highway and junction capacities.
- 5.3.43. Despite indicating a number of modelling items, the signed SoCG [REP9-088] set out that ongoing discussions regarding modelling impacts would be reflected in the signed framework agreement that the Applicant and NH had entered into. This agreement was not submitted into the Examination but all matters relating to modelling impacts are shown as agreed in the SoCG [REP9-088].

ExA’s Conclusion on Highway Network Modelling

- 5.3.44. The ExA acknowledges that the Applicant has provided some commentary on sensitivity testing in Appendix A [REP7-092] but this is limited in nature. We do not consider that the commentary provided by the Applicant on sensitivity testing gives us sufficient comfort to change our view as to the assessment in terms of the level of the future baseline growth considered in the TA.

ExA's Overall Conclusion on Transport Modelling and Network Capacity

- 5.3.45. The above section sets out the ExA's considerations of the implications of the transport modelling submitted into the Examination. As far as possible we have sought to establish a clear picture of the likely impacts on the transport networks. For the reasons set out above we remain uncertain as to whether the submissions made by the Applicant fully describe the likely impacts on the networks, due to there being a likely greater gap between the future baseline and the Proposed Development scenarios than considered in the assessment.
- 5.3.46. The ExA understands that the post-Covid transport demand is lower than the Applicant's 2016 base year level and as such the submitted assessments considered higher levels of traffic on both the highway and rail networks. In terms of the network capacity for the Proposed Development the modelling undertaken in the TA [REP3-028] is considered accurate but our concern arises when considering the future baseline position and its implications for the assessments.
- 5.3.47. This point is echoed in the closing statement by the JLAs [REP9-151]. Paragraph 3.73 states that, "*Queries and concerns remain around aspects of the transport modelling (see the Surrey County Council PADSS [REP5-112]) and the element of uncertainty this creates also informs the JLAs' requests for greater controls.*" In addition, in the Applicant's and NR joint statement [REP9-125] paragraph 1.3.4 states that, "*The Applicant and Network Rail have been unable to fully reconcile and agree modelling outputs.*" Both of these positions give further weight to the ExA's concern about the level of certainty provided by the submitted assessment.

Environmental Effects of Transport in the Environmental Statement Chapter 12

- 5.3.48. Unlike the TA that analyses both the network capacity and operation in the future baseline and Proposed Development scenarios, the ES only considers the effects created by the difference in traffic levels between those two scenarios. In Chapter 12 the Applicant's assessment found that there were no significant effects as a result of the Proposed Development.
- 5.3.49. We accept that the ES has been undertaken in the correct manner in terms of considering the impact of the Proposed Development against the traffic growth associated with the future baseline. However, the levels of passenger growth assessed in the ES are much less than the unassessed growth associated with the future baseline. In Chapter 4 we set out our concerns about the level of the Applicant's predicted future baseline and as explained above we are concerned that this could lead to the levels of traffic generated by the future baseline scenario being less than those used to inform the Chapter 12 assessment.
- 5.3.50. Given our concern that the Applicant has not fully justified that the future baseline passenger growth is deliverable we are left with the concern that the assessment of traffic effects set out in ES Chapter 12 may underestimate effects associated with traffic resulting from the Proposed Development. This is because of a likely lower starting point for the future baseline, so a greater gap to the Proposed Development scenario than that assessed.
- 5.3.51. The Applicant [REP7-073] has provided its own appraisal of what changes in the future baseline may have on their assessment. We have no understanding of how much of the traffic in the baseline scenario is related to the airport activity and taken

with the uncertainty of the future baseline growth we are left with some doubt that the Applicant's submission may underestimate effects.

Surface Access Commitments

- 5.3.52. The Applicant considered that the Surface Access Commitments (SAC) [REP9-043] would be a legally binding commitment secured by the DCO. The Applicant proposed that the SAC would effectively be used to control surface access to the Proposed Development. The highway improvement works on the A23, M23 and the access points to the north and south terminals are not included in the SAC as the necessary works would be specifically secured within Schedule 1 of the rDCO.
- 5.3.53. By way of context the 2016 public transport mode share for air passengers travelling to and from the airport was 43% (Table 135 [APP-260]), in 2019 pre-Covid this mode share was around 45% (paragraph 8.6.13 of the TA [REP3-058]) and in 2023 using the latest available CAA data it was 43.9% (Table 1 [REP6-067]). On this basis there needs to be a significant growth of passengers who use public transport to travel to and from the airport in order to reach the predicted target mode share of 54% within one year of the start of dual runway operations.
- 5.3.54. Paragraph 4.1.2 of the SAC [REP9-043] states that *"The preferred choice of mode is based on many behavioural factors, some of which GAL can influence but are outside GAL's control."* However, the Applicant goes on to say that it *"must achieve the following annualised mode shares by the third anniversary of the commencement of dual runway operations and on an annual basis thereafter."* Commitments 1 to 4 of the SAC are the basis of the Applicant's management of surface access and as it states in the first bullet of paragraph 3.1.1 *"will provide assurance that the surface access related environmental effects forecast through the assessment are not exceeded."*
- 5.3.55. We discussed modal targets and controls at ISH4 [EV2-001], in particular the nature and role of the monitoring process and how the SACMAP would control the effects of airport growth within the envelope assessed within the ES. The Applicant [REP1-059] explained that *"it considers the proposed measures are robust and will be effective. It remains the Applicant's position that there is no need for an alternative such as a passenger or emissions cap where there is general policy support for airport growth and in view of the mitigation proposed as part of the Application."*
- 5.3.56. The Applicant's stance was that the proposed modal targets, reporting methods and necessary action plans secured by the SAC would ensure that Commitments 1 to 4 would be met. These commitments would not directly control any additional traffic effects that may occur should the modal targets assessed in the transport modelling not be met.
- 5.3.57. To better understand the modal share implications for surface access and in relation to the parking provided we asked the Applicant in question R17a.3 of our letter under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Rule 17) [PD-013] for a table showing public transport mode share and parking levels in both the future baseline and Proposed Development scenarios. The Applicant [REP4-019] responded providing this information but at ISH8 [EV17-001] the Applicant stated that the information submitted at D4 was incorrect and they would resubmit. The Applicant's revised response [REP6-067] set out the annual public transport mode shares consistent with the TA.

5.3.58. As discussed above the progress towards the originally proposed target mode share (Commitments 1, 2, 3 and 4) would be reported in an AMR. The Applicant [REP7-042] stated in paragraph 6.2.1 that, *“The first AMR will be produced no later than six months before the commencement of dual runway operations.”* The Applicant explained in paragraphs 6.2.5 to 6.2.13 how the monitoring process would work. In summary the key stages would be:

- The AMR would show if targets were not met or not expected to be met. If this did occur the Applicant would prepare a plan in consultation with the TFSG and implement any identified measures;
- If two successive AMRs identify that targets are not met then the Applicant would prepare a further action plan, the SACMAP in agreement with the TFSG and implement the SACMAP;
- If the TFSG does not agree with the Applicant’s SACMAP approach, then within 90 days the Applicant will submit the SACMAP to the SoS for Transport; and
- The SoS for Transport may approve or direct the Applicant to *“such additional or alternative interventions it considers reasonably necessary to achieve the mode share commitments.”*

5.3.59. The JLAs [REP8-126] set out their view as to the process to address any failure to meet mode share targets at the third anniversary of the commencement of dual runway operations. It explained its view of the programme to address any implementation of a SACMAP including intervention by the SoS for Transport. It concluded that *“Clearly the Secretary of State would require time to review and decide on a course of action, it would likely be after the declaration of capacity for summer 2035 (made in September 2034). Hence, the earliest that any action could be taken by the Secretary of State to limit ATMs would be 2036. At this point, virtually all of the NRP capacity is expected to have been taken up (circa 99% based on the Applicant’s forecasts).”* The Applicant has always maintained its position with respect to the structuring of the mode share commitments in the SAC. By way of summary in the SoCG with SCC [REP9-080] in final response to item 2.20.4.14 the Applicant states *“We have carefully considered the approach to growth and surface access commitments. We are confident that the commitments we are making and the way in which they are structured are appropriate in the context of the anticipated rate of growth which is forecast for dual runway operations at the airport.”*

5.3.60. The ExA has considered all of the submissions made about the timing of the Applicant’s mode share commitments in relation to the first use of the elements of the Proposed Development. We understand the Applicant’s approach is in part meant to be forward looking, however we share the concerns expressed by IPs that this could mean that any mitigation process could only start after first use of a particular element of the Proposed Development.

5.3.61. Mode shares are the basis of the Applicant’s controls over traffic effects. The ExA is aware that by the time of commencement of dual runway operations the most significant improvement in mode share must be achieved, from 43.5% in 2023 to 54% in 2029. With this in mind, in advance of ISH9 [EV20-001] in Annex B of the agenda we proposed an amendment to R20 of the dDCO. Our amendment was the addition of the following to R20:

“(2) First use of the following airport facilities shall not be permitted until the mode shares set out below have been demonstrated to have been achieved in the Annual Monitoring Report unless otherwise permitted by Crawley Borough Council

a) *At least 54% of passengers travelling to the airport used public transport in the monitored year. Should this public transport mode share not be achieved then the Undertaker shall not use the following:*

- *Simultaneous operational use of the northern runway; and*
- *Pier 7 and associated stands.*

b) *At least 55% of passengers travelling to the airport used public transport in the monitored year. Should this public transport mode share not be achieved then the Undertaker shall not use the following:*

- *The South Terminal Hotel Phase 2 on the former car park H; and*
- *The use of multi storey car park Y.*

c) *Not more than 44.9% of staff travelling to the airport were car drivers in the monitored year. Should this car driver mode share be exceeded then the Undertaker shall not use the South Terminal Office (on former car park H)."*

5.3.62. In our view this would introduce land use controls that would restrict first use of particular elements of the Proposed Development until such a time that the Applicant had demonstrated that they had achieved the mode shares that accord with the levels of traffic assessed in the TA and ES.

5.3.63. Following our discussion at ISH9 the Applicant [REP8-107] responded that it *"would not incur the risk of incurring the very significant capital investment spend of constructing the development to then find it was unable to commence dual runway operations because (to take an extreme example) it was 0.1% under an annual monitored passenger public transport mode share. That is not a credible position to expect a commercial developer/operator to adopt, and there is no version of that amendment which adopts the same principle which GAL would accept. The level of uncertainty it would introduce to planning and investing in the development and subsequent operation of the airport would be unacceptable, and GAL would simply choose not to invest in implementing the scheme and instead elect to maintain its current operations/growth under a single runway, where it is not subject to any such restrictions. GAL's record of progressive and industry leading sustainable transport has not needed a "stick" of this nature."*

5.3.64. In addition, in response to Action Point 1 from ISH9 the Applicant [REP8-111] confirmed that they were adding two interim mode share commitments to the SAC. These allowed for the following commitments to be achieved by the first anniversary of the commencement of dual runway operations:

- Commitment 1A - A minimum of 54% of air passenger journeys to and from the Airport to be made by public transport; and
- Commitment 2A - A minimum of 54% of airport staff journeys to and from the Airport to be made by public transport, shared travel and active modes.

5.3.65. The ExA considers that even with the additional interim mode share commitments that the underlying issues with control over the first use of elements of the Proposed Development would still remain. Understanding the Applicant's position with respect to the discharging of R20, we clarified the proposed changes in our dDCO. [PD-028]. We explained that the concern of the Applicant regarding small variances of the figures in sub paragraphs (2)(a)-(c) were noted. However, sub paragraph (2) allows for such small variances to be agreed at a local level by CBC.

5.3.66. The Applicant [REP9-111] responded *"The Applicant notes the further reasoning provided by the ExA; however, for the avoidance of doubt, the Applicant does not*

consider the ability for CBC to "waive" any "small variance" against the target mode share as providing sufficient comfort in the manner the ExA suggest in their reasoning in response to the Applicant's previous comments on this form of wording. Clearly such agreement would be discretionary on the part of CBC and so still retains the level of unacceptable uncertainty which the Applicant's initial submission addressed."

- 5.3.67. The ExA understands the Applicant's concern but considers that CBC as the discharging authority would act reasonably in the matter of allowing first use of the controlled elements of the Proposed Development. The Legal Partnership Authorities (LePAs) [REP9-150] expressed support for the ExA's amendment to R20. In its closing submission [REP9-151] paragraph 3.71 also explained why the Applicant's interim mode share commitment proposal did not change their view as to their support for the ExA's proposed amendment to R20.
- 5.3.68. The ExA is recommending the amendment to R20 using mode shares that have been provided by the Applicant [REP6-067] in Tables 1 and 2. The Applicant states that the figures in these tables are consistent with the modelled mode shares used in the TA [REP3-058]. The ExA has also used the timings for individual development elements set out in the Applicant's Indicative Construction Sequencing [REP8-051]. Mode shares and timings are therefore in accordance with the modelling undertaken by the Applicant. If adopted it would be a realistic means of ensuring that the effects assessed in the ES are not exceeded at the time of the start of dual runway operations and CBC would be discharging authority and able to provide discretion about any minor variations in meeting the targets set out. On this basis the ExA considers that the recommended amendment is necessary, directly related and fair and reasonable in terms of scale and kind to the Proposed Development.

Transport Forum Steering Group

- 5.3.69. Appendix A of the SAC contains the existing terms of reference of the TFSG. Currently the TFSG is consulted on the ASAS during the development phase and once the strategy is adopted, oversees its implementation and monitors progress against targets.
- 5.3.70. If the DCO is consented, then the TFSG would additionally take on a decision making role in the monitoring of the SAC. The terms of reference as currently drafted does not contain any definition of how a decision is made by this group.
- 5.3.71. Paragraph 2.5 of Appendix 4 of the Section 106 agreement [REP10-019] sets out the decision making method by majority vote for the Transport Mitigation Fund Decision Group, who oversee the grant of funding from the Transport Mitigation Fund. There is no such mechanism in the terms of reference for the TFSG.
- 5.3.72. The Applicant in the final SAC [REP9-043] added a Commitment 14C stating that *"Prior to the first Annual Monitoring Report being produced in accordance with Commitment 16, GAL shall carry out a review of the existing TFSG Terms of Reference (annexed at Appendix A) and propose such revised terms of reference as appropriate to reflect the role of the TFSG as set out in these Surface Access Commitments for approval of the TFSG."*
- 5.3.73. CBC [REP9-133] and West Sussex County Council (WSCC) [REP9-172] in the final PADSS state that, *"The Terms of Reference of this group and how decisions shall be made have not been agreed between the Highway Authorities and the Applicant."*

It is noted that in the latest version of the SACs Commitment 14C is included which requires the Applicant to update the Terms of Reference (ToR) of this group. The Highway Authority is of the view though that, as with other groups being formed as part of the DCO i.e. TMFDG, the ToR or the main principles of those ToR should be defined at examination. The decision making of the TFSG and how this takes place is a fundamental matter relating to the control of the development and it is not presently defined in the SACs.”

5.3.74. Given the timing of these submissions in the Examination the ExA was unable to resolve this matter during the Examination. However, we are of the view that the wording of the proposed Commitment 14C does not resolve the issue as it requires the TFSG to make a decision and approve its own method of making decisions prior to any decision method being agreed. The ExA struggled to follow the logic of that approach and agree with CBC and WSCC on this point.

5.3.75. The monitoring process outlined in the text accompanying Commitment 16 sets out the procedure for agreeing the progress in meeting the mode shares targets and the remedial actions that may be required. If the decision making process of the TFSG is not clear prior to commencement there would be no certainty as to how any TSFG decision would be made. Consequently, we are recommending that this matter is dealt with by way of a further amendment to R20. We recommend the addition of the following:

“(3) Prior to submission of the first Annual Monitoring Report the Transport Forum Steering Group decision making process must be agreed in writing by CBC in consultation with NR, NH, SCC and WSCC.”

5.3.76. This suggested R20 amendment would also mean that Commitment 14C in the SAC could be deleted.

5.3.77. The ExA has not had the opportunity within the Examination to receive the Applicant’s or other IPs’ comments on this amendment so we recommend that the SoS may wish to consider consulting the Applicant and relevant parties prior to making any decision on the rDCO.

ExA’s Conclusion on Surface Access Commitments.

5.3.78. The Applicant promotes the SAC as its method of managing surface access for the Proposed Development. It stresses that the SAC mode share commitments will be monitored to predict any potential failure to meet mode share targets and early interventions made, if necessary, through an action planning process. Ongoing failures in meeting mode share targets will require further action plans to be developed and actions implemented.

5.3.79. Given the concerns expressed earlier in this Chapter about the robustness of the transport modelling, the ExA considers that the potentially retrospective mitigations proposed by the Applicant that could be implemented should mode share targets not be met, may not be able to ensure that the traffic and transport effects are within the envelope assessed within the TA and ES. For this reason, the ExA does not accept that the Applicant’s approach, that would be secured in the final dDCO [REP10-004], would necessarily control the likely significant effects to the envelope assessed in the Applicant’s submission.

5.3.80. The rDCO the ExA is recommending would apply control over first use of some of the land use elements of the development to ensure the Applicant’s predicted and assessed modelled mode shares accords with its assessment in ES Chapter 12.

The ExA understands that the Applicant has some concerns about its control over the factors that may affect the mode share targets but the ExA has set out above why we consider the amended R20 in the rDCO meets the required tests.

Parking

- 5.3.81. Car parking supply is an important factor in trip generation, assignment, and managing traffic levels.
- 5.3.82. A number of RRs, WRs and submissions made in LIRs made comments relating to parking provision, management and controls. The Joint West Sussex Local Authorities (JWSLAs) LIR [REP1-068] expressed concern about the deliverability of the future baseline parking numbers. The JSCs LIR [REP1-097] expressed concerns about the management of onsite parking and the potential for on street parking problems to be exacerbated. Holiday Extras [REP1-195] (additionally [REP2-075, REP4-108, REP5-123, REP6-127, REP7-134, REP8-156 and REP9-258]) expressed concerns about the Applicant's submission accuracy and the proposed parking management strategy and its relationship to off-site parking provision.
- 5.3.83. At ISH4 [EV2-001] we discussed the Applicant's car parking assessment. We asked about whether analysis had been undertaken of car parking supply and demand and some specific details about parking provision including the use of permitted development rights. The existing permitted development rights could in theory be used to provide more parking at the airport to that allowed in the dDCO and assessed in the ES.
- 5.3.84. Immediately following ISH4 the Applicant [REP1-051] submitted its Car Parking Strategy (CPS) that provided *"information relating to existing on-airport parking at London Gatwick Airport and the approach that is proposed to be taken in support of the Gatwick Northern Runway Project, particularly in respect of parking provision and management in the context of our Surface Access Commitments. It sets out the key aspects of the car parking strategy for the Project and explains: -*
- *GAL's established approach to managing on-airport parking and the relevance of local plan policy and Section 106 agreements relating to airport parking;*
 - *How the parking requirement for the Project was derived, including reference to the permanent loss of existing spaces because of Project construction;*
 - *The commitments which GAL is making in relation to parking to support its mode share commitments; and*
 - *The operational approaches to delivering, managing and monitoring car parking as part of the Project."*
- 5.3.85. The current level of parking on site is 46,700 and there are an additional 5,460 car parking spaces planned without the Proposed Development making the future baseline number of onsite parking spaces 52,160. The Proposed Development includes a net additional parking number of 1,100 spaces that would bring the total number of onsite parking spaces controlled by the Applicant once the Proposed Development is complete to 53,260.
- 5.3.86. The estimation of the passenger car parking requirement calculation in the CPS related only to the 2047 final requirement and the increase from the 2019 peak activity level. In response to the CPS, we asked in ExQ1.TT.1.41 [PD-012] for the Applicant to provide additional information about parking levels and predicted mode shares in 2019, 2032, 2039 and 2047 for both the future baseline and the Proposed Development.

- 5.3.87. The Applicant [REP3-104] provided the information in response. We considered this alongside the CPS and the Indicative Construction Sequencing [REP2-106]. To better inform our consideration we subsequently asked the Applicant in question R17a.3 in our Rule 17 letter [PD-013] to provide more detail on the changes in parking accumulation, provision and mode share for the future baseline and Proposed Development on an annual basis. The Applicant [REP4-019] provided an initial response, but at ISH8 [EV17-001] the Applicant stated that the information provided was incorrect and subsequently resubmitted its response [REP6-067].
- 5.3.88. Having analysed this response, we had further questions [PD-025] about parking controls, management and the use of permitted development rights to vary the parking provision of the Proposed Development. In advance of ISH9 [EV20-001] in Annex B of the agenda we proposed a new Requirement removing permitted development rights to provide additional parking at the airport without any further consent.
- 5.3.89. The Applicant [REP8-114] responded that *“The Applicant still resists the proposition that its parking provision as originally promoted in the draft DCO was in any way ‘uncontrolled’ given the need to comply with its mode share commitments and its proposed related obligations in the SACs.”* The Applicant did however acknowledge the ExA’s and other IPs concerns about parking provision and proposed a new R37 to cap the overall parking level to 53,260 spaces allowing for parking associated with the Proposed Development.
- 5.3.90. The JLAs [REP9-147] suggested incorporating the ExA’s suggested new Requirement removing permitted development rights with the Applicant’s new R37 to ensure that any increase of parking over and above that permitted by the dDCO would require the agreement of CBC. The Applicant [REP10-004] amended R37 but did not specify the maximum number of air passenger parking spaces that would be allowed in the total cap of 53,260, including staff parking spaces. Therefore, the ExA is proposing an amendment to R37 to specify the total number of air passenger spaces or cars parked alongside the total provision car parking cap in R37.

ExA’s Conclusion on Parking

- 5.3.91. The ExA considers that the level and management of airport parking is an important factor in the Applicant’s approach in managing sustainable surface access. Taking our recommended R37 into account, we consider that there would be suitable control of parking levels at the airport.

Active Travel Issues

- 5.3.92. Section 14 of the TA [REP3-058] assessed the Applicant’s aim *“to make active travel an attractive and realistic choice for short journeys to and from the airport by developing and promoting accessible, safe, and well-planned active travel opportunities.”* Currently only 0.5% of air passenger travel to the airport is on foot or by bicycle and it is not likely that this will change much as a result of the Proposed Development. However, there is a significant proportion of staff who live within walking and cycling distance from the airport and currently only 3% of the staff regularly walk or cycle.
- 5.3.93. The Proposed Development originally included the following active travel improvements, identified in the TA [REP3-058]:
- A23/ A217 Longbridge Roundabout – enhanced walking and cycling facilities;

- New pedestrian and cycle paths connecting Longbridge Roundabout and the airport along both sides of the A23;
- A new shared use ramp into Riverside Garden Park to connect to existing paths;
- A new signal-controlled crossing of the A23, northeast of the North Terminal roundabout; and
- A new pedestrian link from Balcombe Road to the airport footway network on the South Terminal ring road.

5.3.94. In question ExQ1.TT.1.27 [PD-012] we asked about the concerns expressed in item TT6 by the JSCs [REP1-097] with respect to a more direct path, through Riverside Garden Park, from the centre of Horley to connect to the proposed new crossing on the A23 and the North Terminal. The Applicant [REP3-104] responded that it was concerned about the further tree and green space loss if this was included in its proposal at this stage. The Applicant did not rule this out and discussions continued throughout the Examination. The Applicant confirmed in paragraph 5.2.6 of the final SAC [REP9-043] that it would ringfence a £500,000 contribution of the Sustainable Transport Fund to the development of a new path through Riverside Garden Park.

Public Rights of Way

5.3.95. The Applicant proposed that R22 of the dDCO [REP10-004] would control the necessary changes to the Public Rights of Way (PRoW) network by means of the submission of PRoW Implementation Plans. These Plans would be substantially in accordance with the PRoW Management Strategy [REP9-061] and approved by the relevant LHA. The PRoW Management Strategy would be a certified document listed in Schedule 14 and secured through Article 52 of the dDCO.

5.3.96. During the Examination there was no significant disagreement with the overall approach to necessary changes to the PRoW network. However, at the end of the Examination there were several concerns still outstanding about the alteration and possible improvement opportunities not realised in the Applicant's proposals. In the SoCG with WSCC [REP9-084] it is recorded there are still areas of disagreement around the lack of improvements to some elements of the PRoW network affected.

5.3.97. The ExA understands that the LHA would like to seek improvements where possible, but we consider that discussions around any improvements on particular PRoW should take place as part of the development of any PRoW Implementation Plans as set out above.

ExA's Conclusion on Active Travel Issues

5.3.98. The ExA understands that for air passengers improvements to active travel networks are unlikely to greatly affect the numbers of people travelling to the airport to fly. However, it is of much more significance for staff and other visitors to the airport. We consider that the Applicant has endeavoured to make improvements that will assist in better connecting the airport active travel routes to the local communities. These improvements will be secured by a combination of the Surface Access Works in Schedule 1 of the dDCO (Works No 35 to 37) and in the case of the contribution towards the Riverside Garden Park Path through Commitment 3 of the SAC.

Construction Traffic Management

5.3.99. The TA [REP3-058] includes an assessment of the construction impacts associated with vehicle movements for materials, workforce movements, and the management of access routes and management plans. It considers the construction of both the

airport site and highway network changes. The modelling considered both peak airfield and highway construction so as to assess highway network impacts and ensure that the proposed mitigation would be capable of managing construction traffic. The TA concluded that peak airfield or highway construction would not have a significant impact on the performance of the highway network around the Airport.

5.3.100. In order to further minimise any impact of construction traffic the Applicant proposed the following:

- Outline Construction Traffic Management Plan (oCTMP) [REP9-035] to provide an approach to manage construction traffic during the construction of the Proposed Development; and
- Outline Construction Worker Travel Plan (oCWTP) [REP9-033] which identifies potential measures to facilitate efficient and sustainable travel options for the construction workforce during the construction of the Proposed Development.

5.3.101. These proposed outline plans would be certified documents listed in Schedule 14 and secured through Article 52 of the dDCO. In accordance with R12 and 13 of the dDCO [REP10-004] no part of the development is to commence until detailed construction traffic and construction work management plans have been approved by CBC (in consultation with WSCC, SCC and NH).

5.3.102. In the JWSLAs LIR [REP1-068] the Councils expressed some detailed concerns about the construction traffic arrangements set out in both the oCTMP and the oCWTP. Despite discussion between the parties continuing throughout the Examination it was confirmed in the joint position statement between the Applicant and the JLAs [REP9-123] that there were still areas of disagreement on points in the oCTMP.

ExA's conclusion on Construction Traffic Management

5.3.103. The ExA understands the JLAs position but given that detailed travel and traffic management plans would be developed in consultation with the highway authorities and subsequently approved by CBC, we are content with this approach. The development of the detailed plans would be able to take account of local environmental circumstances as advised by the Councils and deliver what would be hoped to be a flexible approach to managing construction traffic.

5.4. ExA's CONCLUSION ON TRAFFIC AND TRANSPORT

5.4.1. In making our recommendation on traffic and transport we have taken the following into account:

- ANPS - we have focused on the compliance with the relevant paragraphs that relate to the general transport impact of development and not any specific policy relating to Heathrow;
- 2015 NNNPS;
- NPPF; and
- relevant legislation and local policy we have as set out in Appendix A.

5.4.2. The works to improve the M23/ A23, the North and South Terminal junctions and Longbridge roundabout are a Nationally Significant Infrastructure Project in their own right. Section 104 of the PA2008 applies to the highway elements of the Proposed Development although the highway works are subsidiary to the airfield works. Consequently, the NNNPS is also an important and relevant consideration in the determination of the application (where appropriate). However, the Applicants

assessment in both the TA [REP3-058] and the ES Chapter 12 [REP3-016] consider all of the Proposed Development as one entity as the highway works are only required to accommodate the additional traffic generated by airport growth associated with the Proposed Development. Consequently, we have considered the traffic and transport impact in the same manner.

- 5.4.3. As mentioned at the Introduction above in Chapter 4 the ExA set out our reasoning why we consider that a likely future baseline passenger growth by 2047 would be in the region of 60 to 61mppa and 76 to 77mppa with the Proposed Development. The ExA also accept that at some point after 2047 the airport will reach 80.2mppa and that level of activity has been assessed in the TA.
- 5.4.4. For the reasons discussed above, the Applicant's commentary relating to sensitivity tests concerning these differences does not give us suitable comfort; additional impacts could arise through any such changes. In addition, we have also considered the issues outlined above concerning the controls in respect to the SAC and parking provision. Whilst the ExA has concerns that the ES may have underestimated likely effects, due to our view that the gap between the future baseline and the Proposed Development traffic levels may be greater than assessed, the TA has assessed junction capacities up to a level of traffic associated with 80.2mppa. The ExA considers that this provides sufficient comfort that there would not be severe residual impacts beyond those assessed in the ES and aligned with the controls proposed in the rDCO. Notwithstanding this, as a result of the Proposed Development, there would be increased road traffic and public transport passenger journeys creating additional stress on already congested networks. Consequently, the ExA considers that traffic and transport carries a moderate level of weight against the making of the Order.
- 5.4.5. Additionally, we have considered the additional controls we are recommending in the rDCO with respect to the SAC and parking levels that would provide greater certainty that the impacts stay within those modelled in the TA. Even accounting for these additional controls, the Proposed Development would still generate additional movements across the already congested transport networks. On the basis of the additional control within the rDCO the ExA considers that the Proposed Development should attract a little weight against the making of the Order.

6. NOISE AND VIBRATION

6.1. INTRODUCTION

- 6.1.1. This Chapter considers the effects of the Proposed Development in relation to noise and vibration during its construction and operation.
- 6.1.2. This Chapter provides details regarding the effects on people, primarily when at home. In relation to effects on Landscape, Historic Environment and Ecology see Chapters 12, 13 and 14 respectively.
- 6.1.3. Chapter 22 details the extensive recommended changes to the Applicant's final draft Development Consent Order (dDCO) [REP10-004] that are explained in this Chapter.

6.2. POLICY BACKGROUND

- 6.2.1. The Airports National Policy Statement (ANPS) at paragraph 5.68 says:

“Development consent should 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:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life;*
- *and where possible, contribute to the improvement of health and quality of life.”*

- 6.2.2. The ANPS paragraph 5.68 is equivalent to the “Noise Policy Aims” as set out in the Noise Policy Statement for England (NPSE). This includes an Explanatory Note which sets this in context and discusses what each aim means. A similar approach can be found in the National Planning Policy Framework (NPPF).

- 6.2.3. The Explanatory Note of the NPSE includes the following at paragraph 2.9:

“Unlike air quality, there are currently no European or national noise limits which have to be met, although there can be specific local limits for specific developments. Furthermore, sound only becomes noise (often defined as ‘unwanted sound’) when it exists in the wrong place or at the wrong time such that it causes or contributes to some harmful or otherwise unwanted effect, like annoyance or sleep disturbance. Unlike many other pollutants, noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it.”

- 6.2.4. With regard to the aims it says:

“There are two established concepts from toxicology that are currently being applied to noise impacts, for example, by the World Health Organisation. They are:

NOEL – No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected.”

6.2.5. The World Health Organisation (WHO) reference is to ‘Night noise guidance for Europe’ (WHO 2009) and NPSE continues:

“Extending these concepts for the purpose of this NPSE leads to the concept of a significant observed adverse effect level.

SOAEL – Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur.”

6.2.6. The Explanatory Note goes on to say at paragraph 2.22:

“It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.”

6.2.7. With regard to the first aim the Explanatory Note says:

“The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development”.

6.2.8. With regard to the second aim the Explanatory Note says:

“The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.”

6.3. THE APPLICATION

6.3.1. The Applicant’s assessment of noise and vibration matters is primarily contained within the Environmental Statement (ES) - Chapter 14 Noise and Vibration [APP-039]. This is supported by Noise and Vibration Figures – Parts 1, 2 and 3 [APP-063 to APP-065] respectively and ten appendices. An Environmental Statement Addendum – Updated Central Case Aircraft Fleet Report [REP8-011] is also provided.

6.3.2. We have set out the application under the headings of aircraft noise, construction noise and vibration, and road traffic noise.

AIRCRAFT NOISE

6.3.3. We have set out the Applicant’s consideration of aircraft noise under the following headings:

- aircraft noise assessment, covered under the sub-headings of ‘Daytime and night-time LOAELs’ and ‘Daytime and night-time SOAELs’ with reference to its closing statement [REP9-112] and its ES [APP-039] to summarise its approach, which did not change during the Examination;

- receptor based mitigation, as the final and least desirable way to avoid significant adverse noise effects at receptors, in pursuit of the first policy aim in relation to noise, with reference to its final dDCO [REP10-004]; and
- air noise limits, used to minimise and where possible reduce aircraft noise, to achieve the second and third policy aims, with reference to its closing statement [REP9-112], its ES [APP-039], its ES Addendum [REP4-004] and its final dDCO [REP10-004].

Aircraft Noise Assessment

Daytime and Night-Time LOAELs

- 6.3.4. The Applicant's closing statement [REP9-112] at paragraph 11.4.21 made it clear that in order to reach a clear conclusion on NPSE and ANPS paragraph 5.68 it was necessary to define LOAELs and SOAELs for aircraft noise.
- 6.3.5. With regard to the metrics to be used to represent LOAELs for aircraft noise and the values to be assigned to them the Applicant's closing statement [REP9-112] said that it had adopted LOAELs in line with the position set out by Government in its 'Consultation Response on UK Airspace Policy: A Framework for Balanced Decisions on the Design and Use of Airspace'.
- 6.3.6. The Applicant stated that the Government defined aircraft noise LOAELs as the summer season LAeq 16 h of 51dB for day and LAeq 8 h of 45dB for night. The Applicant went on to say that Government had explained that the use of these metrics would ensure that the total adverse effects on people can be assessed, and airspace options compared, and that airspace decisions would be consistent with the objectives of the overall policy.
- 6.3.7. The Applicant concluded its discussion of LOAELs in its closing statement [REP9-112] at paragraph 11.4.24 and said that it did not consider that there was any sound evidence to suggest that different LOAELs should be adopted to those identified by Government. The Applicant went on to say that to choose different LOAELs would be inconsistent with Government's judgement and with its stated intention to bring consistency to aircraft related planning.
- 6.3.8. The Applicant proposes [APP-039] aircraft noise LOAELs as the summer season LAeq 16 h of 51dB for day and LAeq 8 h of 45dB for night.

Daytime and Night-Time SOAELs

- 6.3.9. The Applicant's closing statement [REP9-112] at paragraph 11.4.25 said that it had defined SOAELs by reference to Government expectations of compensation and noise insulation schemes, specified in the Aircraft Policy Framework 2013 (APF), and having had regard to a number of recent applications for airport development.
- 6.3.10. For daytime, the Applicant set a SOAEL at LAeq16h of 63 dB. The Applicant stated that this represented the exposure level at which the 'Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, Second Edition' (CAP 1506) indicated that 23% of the population would be highly annoyed.
- 6.3.11. The Applicant provides further information regarding the daytime level, including precedent of other projects which had adopted the same value, which is detailed at paragraphs 14.2.54 – 14.2.60 of ES Chapter 14 [APP-039].

- 6.3.12. At paragraph 14.2.53 the Applicant recognises that Government guidance does not explicitly define a daytime SOAEL for aircraft noise and referred to planning appeals considered under section (s) 78 of the Town and Country Planning Act 1990. These included the London Heathrow Airport planning application appeal decision ref: APP/R5510/A/14/2225774, February 2017 and the London Stansted Airport planning application appeal decision ref: APP/C1570/W/20/3256619, May 2021.
- 6.3.13. With regard to the London Heathrow Airport planning appeal decision the Applicant stated at paragraph 11.2.15 of their closing statement [REP9-112] that the inspector noted that the parties did not differ that the SOAEL for aircraft noise was 63 dB LAeq 16 h and that noise impacts at that level are required to be avoided.
- 6.3.14. With regard to the night-time SOAEL the Applicant's closing statement [REP9-112] at paragraph 11.4.27 said that its proposed value for the night period is taken from the interim target in the WHO Night Noise Guidelines 2009 of LAeq 8 h of 55 dB. The Applicant went on to say that those guidelines say that above this level *"Adverse health effects occur frequently, and a sizeable proportion of the population is highly annoyed and sleep-disturbed."*
- 6.3.15. The Applicant proposes aircraft noise SOAELs as the summer season LAeq 16 h of 63dB for day and LAeq 8 h of 55dB for night.

Receptor Based Mitigation

- 6.3.16. Having accounted for source and pathway mitigation, for example the western noise bund to mitigate elements of ground noise, secured by R32 of the Applicant's final dDCO [REP10-004], the Applicant set out its proposals for receptor based mitigation in its ES Appendix 14.9.10: Noise Insulation Scheme (NIS) [REP9-059]. The Applicant proposes an inner and outer zone, with the latter sub-divided into three sub zones.
- 6.3.17. At paragraph 4.1.4 of the NIS the Applicant says that the inner zone would be based on the predicted LAeq 16 h of 63dB daytime and LAeq 8 h night of 55dB summer air noise contours for 2032. The Applicant explains that the 55dB LAeq 8 h night time contour fully enclosed the 63dB LAeq 16 h daytime contour. The Applicant says that above these noise levels noise effects to health and quality of life to residents would become significant if noise insulation was not provided. The Applicant proposes that people living in these areas should be able to apply for a full package of noise insulation.
- 6.3.18. Paragraphs 4.1.4, 4.1.6, 4.3.9, 4.3.11, and 4.3.13 of the NIS [REP9-059] explain the inner zone, the sub zones and the contribution limits, which in summary would be:
- | | |
|--|-------------|
| ▪ inner zone | £26,500; |
| ▪ outer zone sub zone 1 LAeq 16 hr 60 to 63 dB | £10,500; |
| ▪ outer zone sub zone 2 LAeq 16 hr 57 to 60 dB | £6,500; and |
| ▪ outer zone sub zone 3 LAeq 16 hr 54 to 57 dB | £4,500 |
- 6.3.19. Paragraphs 4.2.3 to 4.2.11 of the NIS detail the physical components of the scheme and summarise these in a table.
- 6.3.20. The Applicant describes its proposed implementation process, including timings, communications, and the involvement of Crawley Borough Council (CBC) in section 4.3 of the NIS. In paragraph 4.3.10 the Applicant explained that where ground noise was assessed through measurement, after the commencement of dual runway

operations, it would be combined with air noise to consider eligibility for the inner zone NIS.

- 6.3.21. The Applicant describes how schools and home relocation assistance would be dealt with in sections 5 and 6 respectively of the NIS.
- 6.3.22. Some of the above aspects, for example the timing of installation, are detailed by the Applicant in Requirement (R)18 of its final dDCO [REP10-004]. With regard to the inner zone, R18(3) would require the noise insulation measures to be installed prior to the commencement of dual runway operations, whereas with regard to the outer zone sub zone 3, R18(5) would require the noise insulation measures to be installed not later than the third anniversary of the commencement of dual runway operations.

Air Noise Limits

- 6.3.23. The Applicant set out its proposals for noise limits in the form of a noise envelope in its ES Appendix 14.9.7: The Noise Envelope [REP10-011].
- 6.3.24. In Table 14.3.1 of the ES Chapter 14: Noise and Vibration [APP-039] Summary of Scoping Responses the Applicant states that the central case (CC) used in the noise assessment is based on what it considers to be the most likely rate of fleet transition. At paragraph 14.5.9 of the ES Chapter 14 [APP-039] the Applicant says that in 2019 about 13% of the aircraft operating at Gatwick were next generation which were quieter than current generation aircraft.
- 6.3.25. The Applicant explains [APP-039] that the CC is based on what was considered pre-Covid to be the most likely rate of fleet transition. To account for uncertainty and the financial impact on the airlines it had also carried out noise modelling for a slower transition case (STC) in which the rate of fleet transition was delayed by about five years and which would result in higher noise levels than the CC.
- 6.3.26. The Applicant's Environmental Statement Addendum – Updated Central Case Aircraft Fleet Report [REP4-004] shows what it refers to as an updated central case (UCC).
- 6.3.27. In its closing submissions [REP9-112] the Applicant provided a detailed response to the Legal Partnership Authorities (LePAs) issues, particularly around the process of monitoring, enforcing and reviewing its proposed noise envelope from 6.4.66 to 6.4.92 of the section on Environmentally Managed Growth (EMG) Framework.
- 6.3.28. The Applicant confirmed its proposed metrics for noise envelope purposes in its closing submissions [REP9-112] at paragraph 11.5.69 as the LAeq 16 h day 51 dB contour area (the area enclosed by the 92-day summer season average mode noise contour) and the LAeq 8 h night 45 dB contour area (the area enclosed by the 92-day summer season average mode noise contour).
- 6.3.29. At paragraph 11.5.75 of its closing submissions [REP9-112] the Applicant noted that following the adoption of the UCC, the noise envelope would mean that the day and night LAeq air noise contours would not exceed the equivalent contour areas with one runway in 2019 in any year of operation.
- 6.3.30. At paragraph 11.5.112 of its closing submissions [REP9-112] the Applicant explained that the largest LAeq contour area with the Proposed Development would be expected to occur around three years after the commencement of dual runway

operations, in about 2032. The forecast 2032 LAeq contour area had therefore been used to set the geographical boundary based on the assumed UCC, which would ensure that it is in alignment with the contour areas used for the noise envelope [REP8-084] as amended at Deadline 9.

- 6.3.31. The Applicant's final proposals are set out in requirements R15 and R16 of its final dDCO [REP10-004] supported by its ES - Appendix 14.9.7 The Noise Envelope [REP10-011].
- 6.3.32. With regard to the processes for planning, monitoring, and reviewing the noise limits the Applicant's proposals [REP10-004] and [REP10-011] include:
- the Applicant to produce an Annual Monitoring and Forecasting Report (AMFR) which looks back one year and forward five years which is submitted for approval to the "*Independent air noise reviewer*" (IANR) who is for the time being the CAA;
 - the submission of the first AMFR between two and three years ahead of the anticipated start of dual runway operations;
 - the Applicant to produce a Compliance Plan in the event that breaches have occurred or are forecast to occur in the next five years and submit these to the IANR;
 - an initial review after nine years and then every five years thereafter, and mechanisms to initiate a review of the noise limit at times when the Applicant considers it necessary; and
 - the preparation of "*noise envelope review documents*" by a "*specialist aircraft forecaster*."

CONSTRUCTION NOISE AND VIBRATION

- 6.3.33. The Applicant, in its ES Chapter 14: Noise and Vibration [APP-039], used BS 5288 to assess the effects of construction noise and vibration on residential and other premises.
- 6.3.34. With regard to significant effects, the Applicant identified the potential for significant adverse construction noise effects at approximately 37 properties during the day and approximately 10 during the night. The Applicant identified no significant adverse construction vibration effects.
- 6.3.35. The Applicant proposed that mitigation to minimise adverse noise effects and avoid any significant effects would be secured through the Code of Construction Practice (CoCP) [REP8-024] which followed the principles of 'Code of practice for noise and vibration control on construction and open sites – Part 1 Noise' (BS 5228), and the use of s61 of the Control of Pollution Act 1974 (CoPA 1974).
- 6.3.36. The Applicant stated at paragraph 14.13.10 [APP-039] that noise insulation would be offered to all properties predicted to be exposed to noise levels above SOAEL so as to mitigate all significant effects above SOAEL.

ROAD TRAFFIC NOISE

- 6.3.37. The Applicant, in its ES Chapter 14: Noise and Vibration [APP-039], used Design Manual for Roads and Bridges LA 111 Noise and vibration (DMRB LA 111) to assess operational road traffic noise effects on all receptors.
- 6.3.38. The Applicant's proposals described in the ES Chapter 14: Noise and Vibration [APP-039] to mitigate adverse road traffic noise effects included:

- a one metre high noise barrier along the North Terminal Roundabout flyover elevated section to reduce road traffic noise; and
- a one metre high noise barrier along the South Terminal Roundabout flyover elevated section, north side to reduce road traffic noise.

6.3.39. Noise barriers as a form of noise mitigation are listed as Work No.44 Ancillary or Related Development (m) in the dDCO [REP10-004]

6.3.40. No significant noise effects caused by road traffic noise were identified by the Applicant.

6.4. ISSUES CONSIDERED DURING THE EXAMINATION

6.4.1. There were over 4800 Relevant Representations (RR) submitted, with over 3000 raising concerns about the noise impacts of the Proposed Development, with most of these raising concerns about aircraft noise caused by the operation of the airport. Having taken these into account alongside the submitted application documents, we considered that noise and vibration would be one of the initial principal issues for the Examination. The Initial Assessment of Principal Issues is set out in Annex C of the Rule 6 letter [PD-009].

6.4.2. We have set out the issues considered in the Examination with regard to noise and vibration under the headings of aircraft noise, construction noise and vibration, and road traffic noise.

AIRCRAFT NOISE

6.4.3. Under aircraft noise we have set out the issues under the same headings as in section 1.3, namely, aircraft noise assessment, receptor based mitigation and noise limits.

Aircraft Noise Assessment

Daytime and Night-Time LOELs

6.4.4. The Joint Surrey Councils (JSCs) Local Impact Report (LIR) [REP1-100] included Appendix C: Noise and Vibration – District and Borough Profiles. Within this appendix, Reigate and Banstead Borough Council (RBBC) raised concerns with reference to WHO 2009 and Environmental noise guidelines for the European Region (WHO 2018) about the Applicant's choice of noise effect thresholds for air noise during the night. RBBC also noted that the Department for Transport (DfT) is funding two domestic cross-sectional studies – an Aircraft Night Noise Effects Study and an Aircraft Noise Attitudes Study.

6.4.5. Within the same appendix Tandridge District Council (TDC) [REP1-100] considered that the day time LOAEL of 51dB LAeq 16h should be regarded as an interim figure until and unless such time as local, national, or reliable international work is completed that identifies a lower threshold and the noise insulation scheme is refined accordingly.

6.4.6. Kent County Council (KCC) in its RR [RR-2422], its LIR [REP1-079] and its closing statement [REP9-146] included that it had long argued the impacts of Gatwick's current single runway configuration were already unacceptable, and a potential increase of these impacts on local communities would be intolerable. Areas of west Kent such as Tunbridge Wells, Edenbridge, Hever and Penshurst were named as areas that it considered were adversely affected by overflight from Gatwick.

- 6.4.7. In its closing statement [REP9-151] the LePAs suggested at paragraph 3.26 that air noise data should be provided for a range of other metrics, in addition to the LAeq 16h and 8h metrics used to define the LOAELs and SOAELs in the ES Chapter 14: Noise and Vibration [APP-039].
- 6.4.8. With regard to the impact of night noise the LePAs [REP9-151] said that:
- there is already considerable evidence of adverse health impacts from sleep disturbance due to aircraft noise [REP5-094] see paragraph 8.17;
 - WHO 2009 recognised 40dB Lnight as “a health-based limit value of the night noise guidelines (NNG) necessary to protect the public”;
 - WHO 2018 strongly recommended reducing noise levels produced by aircraft during night time below 40 dB Lnight, “as night time aircraft noise above this level is associated with adverse effects on sleep.”; and
 - unlike Heathrow, Gatwick does not operate a voluntary night flight ban for any part of the DfT night flight period 23:30 – 06:00 and it is therefore even more crucial that the full effects of the Proposed Development on night time noise disturbance are properly understood.
- 6.4.9. Gatwick Obviously Not (GON) in its Written Representation [REP1-179] made additional points including that:
- CAP 1506 shows that about 7% of people were highly annoyed by aircraft noise at levels below 51 dB LAeq 16 h;
 - at Gatwick specifically there is clear evidence from complaint data that many people living in areas outside LOAEL contours regard themselves as being significantly adversely impacted. Virtually all campaign groups set up around Gatwick since 2014 have been based in areas outside LOAEL contours; and
 - the field work that provided the data for CAP 1506 did not survey anyone who lived in areas below 51dB LAeq 16h. It therefore could not generate any data on levels of annoyance outside the Applicant’s proposed daytime LOAEL.
- 6.4.10. The United Kingdom Health Security Agency (UKHSA), a statutory consultee, in its RR [RR-4687] said that the Applicant’s statement at paragraph 14.9.185 of the ES Chapter 14: Noise and Vibration [APP-039] that the LOAEL contours had been chosen because they represent the lowest level of observable effects during the day contradicted paragraph 14.2.52 that said about 7% of the population in 2014 was annoyed by aircraft noise at 51 LAeq 16 h.
- 6.4.11. As there was disagreement between the Applicant’s position and the position of the UKHSA, the Government’s authority on the health effects of noise, and several Interested Parties (IPs) on this most basic noise and planning policy related question we asked questions on this at Issue Specific Hearing (ISH) 5 [EV10-002].
- 6.4.12. We also considered it necessary to do this to establish well founded eligibility criteria for receptor based mitigation to be used as a ‘last resort’ to avoid significant effects.
- 6.4.13. During ISH5 we drew the Applicant’s attention to how the noise exposure curve, Figure 8 of CAP 1506 supported, for example, the UKHSA’s and KCC’s position regarding a daytime LOAEL. We also explained that it had been used to define a different quantity called a ‘community LOAEL’ in the Air Navigation Guidance (ANG 2017), for the purposes of considering airspace change and it was this that the Applicant was using.

- 6.4.14. At the hearing the Applicant seemed to accept the role of ANG 2017 in supporting the implementation of airspace change policy but considered there was no reason to change their view on the value to be assigned to the daytime LOAEL for aircraft noise that it had used in its noise impact assessment of the Proposed Development.
- 6.4.15. As the ANPS says at paragraph 5.53 *“Operational noise, with respect to human receptors, should be assessed using the principles of the relevant British Standards and other guidance”* we asked the Applicant about this in our first written questions (ExQ1) NV.1.6 [PD-012]. In its response [REP3-101] the Applicant made reference to the British Standard ‘Methods for rating and assessing industrial and commercial sound’ (BS 4142) but made no reference to the British Standard ‘Guidance on sound insulation and noise reduction for buildings’ (BS 8233), with regard to the impact of aircraft noise on dwellings.
- 6.4.16. We referred to both of these British Standards during the Examination as they provide guidance on the assessment of operational, rather than construction noise, with respect to human receptors and we consider them to be important and relevant. In combination they provide:
- recommended internal and external noise limits in relation to dwellings and other premises for characterless noise based on Guidelines for community noise (WHO 1999) for night-time and daytime;
 - explanation of some of the characteristics of aircraft noise and how they should be considered in the design of aircraft noise mitigation measures; and
 - quantified adjustments or penalties that should be applied to specific noise that has character, including intermittency, tonal or low frequency components.
- 6.4.17. The unadjusted values quoted in Table 4 of BS 8233 include an internal guideline limit value 35 dB LAeq,16h 07:00 to 23:00 and a corresponding external guideline limit value of 50 dB LAeq, T. The difference of 15 has become regarded as a reasonable value for a partially open window for the most prevalent form of environmental noise, that is to say distant traffic which by its nature is characterless.
- 6.4.18. The adjustments recommended in BS 4142 can be as much as 9 dB with a figure of 6 dB being more commonly used in its worked examples.
- 6.4.19. We consider that by using the principles of these British Standards, as set out at paragraph 5.53 of the ANPS, would suggest a day-time LOAEL of around 50 minus 5 dB, given that aircraft noise has distinct characteristics, hence 45 dB LAeq 16 h.
- 6.4.20. The Government’s airspace policy includes a collection of documents including ANG 2017. At paragraph 3.5, ANG 2017 says that *“It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis”* and that *“For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the Civil Aviation Authority (CAA) should ensure that these metrics are considered”*
- 6.4.21. ANG 2017 says at paragraph 3.11:
- “For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. Metrics that must be considered for these purposes*

include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise.”

- 6.4.22. The promotion of additional metrics by the CAA and a number of IPs is consistent with evidence of adverse aircraft noise effects, for example as expressed by GON and KCC, that is below the value of the daytime LOAEL chosen by the Applicant. We consider that this would be resolved by establishing a value for the daytime LAeq based LOAEL that is consistent with such evidence. We consider that this can be achieved by using the principles of the relevant British Standards BS 8233 and 4142 as directed by the ANPS. We recognise the practical difficulties reported by the Environmental Research and Consultancy Department (ERCD) of the CAA as detailed in its ‘Measurement and Modelling of Aircraft Noise at Low Levels’ (ERCD 1006) which was referred to by the Applicant [REP3-101] but we consider that to be a separate issue.
- 6.4.23. We invited the Applicant to carry out a sensitivity test for total aircraft noise through ExQ1 NV.1.5 [PD-012] and the Applicant explained [REP3-101] the reasons why they did not consider this necessary or feasible. In summary they considered it was not required by policy and made reference to some of the material in ERCD 1006 regarding the practical difficulties in validating the aircraft noise model.
- 6.4.24. We have examined the evidence relied upon by the Applicant and the representations made by other IPs, regarding the value of the daytime LOAEL in terms of an LAeq.
- 6.4.25. We consider by inspection of Figure 8 of CAP 1506 that adverse effects, represented by % highly annoyed, remain above zero below 51 dB LAeq 16h. We note that the response against noise exposure curve has been extrapolated to show a response still above zero at 45 dB LAeq 16 h. This weighs against the Applicant’s position.
- 6.4.26. We have noted that CAP 1506 only surveyed people exposed at or above 51 LAeq,16h for an average summer day. As it says at paragraph 4.4: *“respondents were required to live within the vicinity of a civil airport and be exposed to an average summer day noise exposure level of at least 51 dB LAeq,16h.”* This confirms the point made by GON and weighs against the Applicant’s position.
- 6.4.27. As set out in ANG 2017, the ‘community LOAEL’ is for the purpose of the analysis by the CAA of airspace change proposals, where one airspace design is compared with another. As the Applicant has pointed out [REP3-101], its application seeks no change in airspace design, so we consider it weighs against the Applicant’s position as it calls into question the relevance of the guidance to the Proposed Development.
- 6.4.28. We consider that for those people, sometimes who live further away from Gatwick Airport, who perceive no benefit, but where the noise they experience is attributable both to the airport and is for others’ *“leisure pleasure”* as described by Langton Green Village Society [REP9-293] the *‘complex emotional reactions’* referred to in BS 8233 are also more likely to be triggered. We consider, that in addition to the physical characteristics of aircraft noise as already discussed, this further helps explain the higher sensitivity compared with other forms of transport, such as road and rail reported in WHO 2018.
- 6.4.29. Whilst recognising that WHO 2018 has not been transposed into guidance in the form of British Standards, we consider that WHO 2018, with its different recommended noise limit values for different forms of transport, gathered from a

large number of studies, supports the same outcomes as using the principles of BS 8233 and BS 4142. For example, WHO 2018 strongly recommends for road traffic noise an L_{night} limit of 45 dB and for aircraft noise an L_{night} limit of 40 dB, that is to say a 5 dB difference. This would weigh against the Applicant's position.

- 6.4.30. A LOAEL is unambiguously defined in Government policy as the level above which adverse effects on health and quality of life can be detected, but for the purposes of comparing proposals for airspace change, Government guidance set out in ANG 2017 says that using a community LOAEL at a value above the LOAEL may be sufficient.
- 6.4.31. We consider that the reasoning behind this may include the prevailing noise level caused by non-aircraft sources, often the strategic road network [REP9-112] paragraph 11.7.10, being at a similar level or above the community LOAEL value at all areas affected by the proposed airspace change, and the increasing unreliability of predictive noise modelling at lower aircraft noise levels [REP9-112] paragraph 11.7.4 and ERCD 1006 which identifies the difficulties in validating the aircraft noise model below 54 dB LAeq 16h.
- 6.4.32. We have included this detail to explain why we disagree with the Applicant's final sentence on LOAELs at paragraph 11.4.24 of its closing submission [REP9-112] where it says: *"To choose a different LOAEL would be inconsistent with the government's judgement but also with its stated intention to bring consistency to aircraft related planning."*
- 6.4.33. With regard to a night-time LOAEL, the 'Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance' (CAP 2161) did survey people below the Applicant's proposed night-time LOAEL of 45 dB LAeq 8h and Figure 4 includes data points down to 39 and 44 dB LAeq 8h. These data points are a direct indication of a night-time LOAEL lower than 45 dB LAeq 8h.
- 6.4.34. By applying the same principles set out in British Standards, already described in relation to daytime, an appropriate value for night-time LOAEL would be 40 dB LAeq 8h.
- 6.4.35. With regard to further research that is underway the CAA confirmed [REP3-111] that their peer reviewed report would likely be published early 2026, so would not be evidence available to the Examination.

ExA's Conclusion on Daytime and Night-Time LOAELs

- 6.4.36. For its choice of metrics to be used as daytime and night-time LOAELs, we conclude that the Applicant has used noise exposure in the form of LAeq, T as defined in the Glossary to Aircraft Strategy: Noise Forecast and Analysis (CAP 1731) as:
- *"LAeq16h Equivalent sound level of aircraft noise in dBA for the 16 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 0700 and 2300 local time during the 92-day period 16 June to 15 September inclusive"; and*
 - *"LAeq8h Equivalent sound level of aircraft noise in dBA for the 8 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 2300 and 0700 local time during the 92-day period 16 June to 15 September inclusive"*

- 6.4.37. For reasons of historical continuity and the UK evidence base, at least in terms of response against noise exposure in the form of CAP 1506 and CAP 2161, we see no reason to disagree with these choices for the LOAEL noise metrics.
- 6.4.38. With regard to the values to be assigned to the LAeq 16h and LAeq 8h metrics to represent the daytime and night-time LOAELs respectively, we consider there is consistency between:
- the views of the UKHSA;
 - using the principles and guideline values of British Standards BS 8233 and BS 4142;
 - the response against noise exposure survey information published by the CAA as CAP 1506 and CAP 2161;
 - the recommendations based on many responses against noise exposure surveys published as WHO 2018; and
 - the views expressed by KCC [REP9-146] and GON [REP1-179].
- 6.4.39. We conclude that a daytime LOAEL value of 45 dB LAeq 16h and a night-time LOAEL value of 40 dB LAeq 8h are well supported by the evidence put before us in the Examination.
- 6.4.40. We conclude that they provide a sound foundation for the assessment of aircraft noise that would be caused by the operation of the Proposed Development and would inform both the consideration of eligibility criteria for receptor based mitigation and the setting of noise limits to achieve the aims of noise policy as set out in the ANPS and the NPPF.

Daytime and Night-Time SOAELs

- 6.4.41. The Joint Local Authorities (JLAs) concerns [REP5-094] in relation to night-time SOAELs included that the Applicant had not addressed the use of an awakenings metric as supported by research in the 'Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance, Further Analysis' (CAP 2251), and that they should be used to cumulatively assess the impact of both air noise and ground noise.
- 6.4.42. Communities Against Gatwick Noise and Emissions (CAGNE) raised concerns [REP2-070] that the Applicant had not considered secondary metrics in its determination of significant effects and that the Applicant had not proposed values for Unacceptable Adverse Effect Levels as they had been set by other airport expansion schemes, which the Applicant relied heavily on for its choice of SOAELs.
- 6.4.43. The APF says at paragraph 3.17 that it considers the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance, but subsequently CAP 1506 indicates that significant community annoyance is likely to occur at a lower noise level, as the same percentage of respondents said by the 'UK Aircraft Noise Index Study' to be highly annoyed at 57 dB LAeq,16h now occurs at 54 dB.
- 6.4.44. By inspection of CAP 1506 Table 25 we can see that the term 'significant community annoyance' is the noise exposure corresponding to 9% of the surveyed sample of people becoming highly annoyed.
- 6.4.45. At the same time, we consider that it could be regarded as the point where someone who is highly annoyed at the daytime LOAEL, becomes significantly adversely affected with reference to the descriptions given in the noise exposure hierarchy table included in the Government's Planning Practice Guidance on noise.

- 6.4.46. Paragraph 35 of the London Stansted Airport planning appeal decision described that the Council and the appellant agreed that the 54 dB LAeq 16 hour contour should be the basis for future daytime noise restrictions to limit and, where possible, reduce the number of people significantly affected by aircraft noise, consistent with the APF, and that the metric corresponded to that used by the CAA in CAP 1731.
- 6.4.47. With regard to the London Heathrow Airport planning appeal decision, which the Applicant relies upon for its choice of 63 dB LAeq 16 h as the daytime SOAEL. We note that when the appeal was heard in 2015 the parties did not have the benefit of CAP 1506. CAP 1506 was first published in 2017 so on that basis we give little weight to this evidence.
- 6.4.48. With regard to a night-time SOAEL and the Applicant's choice of the WHO 2009 interim target for night-time, the WHO do not recognise or define the concept of a SOAEL, within WHO 2009, and NPSE recognised that it was introducing and defining the concept for the first time.
- 6.4.49. We consider that the proposed WHO 2009 interim target for night-time applies to noise that is not from a specific source and is without character, so we would follow the same line of reasoning as for the daytime LOAEL. Therefore the 55 dB level would attract a penalty for aircraft noise character according to the principles of BS 4142. This would suggest a night time SOAEL of below (55-5) dB, hence below 50 dB LAeq 8h.
- 6.4.50. We considered the information included in CAP 2251, referred to by the LePAs [REP5-094]. We consider there is reasonable alignment between one additional aircraft induced awakening, 10% of the sample reporting being 'highly sleep disturbed' and an LAeq 8h value of 48 dB. This would be consistent with the position of CAP 1506 with regard to the onset of significant effects during the day being at 9% highly annoyed.
- 6.4.51. At paragraph 14.2.54 of ES Chapter 14 [APP-039] the Applicant referred to the London Stansted Airport planning appeal decision. Paragraph 36 of that decision states that the onset of significant annoyance at night is at 48dB LAeq 8 h.

ExA's Conclusion on Daytime and Night-Time SOAELs

- 6.4.52. We consider that the policy, guidance, and evidence available to the Examination support SOAEL values of 54 dB LAeq 16 h for the daytime and 48dB LAeq 8 h for the night-time which is consistent with the conclusion reached in the London Stansted Airport planning appeal decision.

ExA's Overall Conclusion on Aircraft Noise Assessment

- 6.4.53. Regarding which metrics should be used as indicators of noise effects on human receptors, for reasons of historical continuity and the available evidence base, at least in terms of CAP 1506 and CAP 2161, we see no reason to disagree with these being the LAeq 16 h and the LAeq 8h for the average summer day as defined in CAP 1731 providing that the values assigned to these metrics are consistent with the available evidence.
- 6.4.54. Given their importance in the consideration of aircraft noise effects we propose that the CAP 1731 definitions, as reproduced at paragraph 1.4.36 of this Chapter, are included in our recommended DCO (rDCO) as detailed in Chapter 22 of this Report.

6.4.55. We agree with the Applicant that values need to be assigned to these metrics corresponding to LOAELs and SOAELs so that adverse and significant adverse effects on human receptors would be identified and addressed as required by policy at ANPS paragraph 5.68.

6.4.56. The ANPS is clear at paragraph 5.53 that the principles of relevant British Standards should be used to assess effects on human receptors caused by the operation of the airport so the Applicant’s use of the ‘Consultation Response on UK Airspace Policy: A Framework for Balanced Decisions on the Design and Use of Airspace’ was therefore inappropriate and led to inaccuracy. We also consider that the Applicant did not pay due regard to the other evidence made available to it before or during the Examination.

6.4.57. For clarity we set out in Table 6.1 a summary of the Applicant’s position on aircraft noise effect assessment thresholds which did not alter during the Examination.

Table 6.1: Applicant’s Aircraft Noise Effect Assessment Thresholds

LOAEL LAeq 16h	LOAEL LAeq 8h	SOAEL LAeq 16h	SOAEL LAeq 8h
51	45	63	55

6.4.58. Aircraft noise effect assessment thresholds as concluded by us at the end of the Examination are summarised in Table 6.2.

Table 6.2: ExA’s Aircraft Noise Effect Assessment Thresholds

LOAEL LAeq 16h	LOAEL LAeq 8h	SOAEL LAeq 16h	SOAEL LAeq 8h
45	40	54	48

6.4.59. For the remainder of this Chapter, we will refer to these aircraft noise effect thresholds as LOAEL LAeq 16h (L16), LOAEL LAeq 8h (L8), SOAEL LAeq 16h (S16) and SOAEL LAeq 8h (S8).

Receptor Based Mitigation

6.4.60. The JSC’s LIR [REP1-100] Appendix C: Noise and Vibration – District and Borough Profiles included that:

- Mole Valley District Council (MVDC) raised concerns about operational air and ground noise. It considered that further information and discussion were required regarding the NIS. This included the lowering of the thresholds, the use of additional metrics to identify eligible dwellings, provision of heating and cooling equipment and support with costs for its operation and maintenance. It considered that an air noise management plan should be provided where all air noise mitigation and management measures would be secured;
- RBBC raised concerns over the NIS, with reference to the Heathrow Airport expansion: noise insulation policy (2019), including lowering the threshold for the inner zone, the use of metrics related to additional awakening, the use of full single mode easterly and westerly operation, the provision of an independent over heating assessment and support with both operating and maintenance costs of active methods aimed to provide sufficient ventilation and cooling;
- With reference to the Overarching Aviation Noise Policy Statement (OANPS), the NPPF, WHO 2009 and WHO 2018 and CAP 2161, TDC considered that air

noise mitigation for effects at night should start at 40dB LAeq 8h and with the largest mitigation package starting at 48 dB LAeq 8h;

- Regarding effect thresholds for awakenings TDC considered that the LOAEL for awakenings should be set at 0.5 additional awakenings for the average summer night and SOAEL for awakenings set at 1 additional awakening for the average summer night, and the thresholds for noise mitigation would take account of these; and
- TDC considered that improvements to the Applicant's NIS were required generally and also in the context of specific locations.

6.4.61. With regard to the Applicant's NIS the Joint West Sussex Local Authorities (JWSLAs) in their LIR [REP1-068] raised concerns including:

- qualification for the maximum protection should be extended to 60 dB LAeq for the maximum extent of the single mode contour in the worst-case year;
- the threshold at which the maximum qualifying amount for insulation and cooling should be extended from the 55 LAeq to 48 LAeq for night;
- the maximum level of insulation and home adaptation for cooling needs to be set at one additional awakening for the total impact of all flights not solely those that are said to be from the Northern Runway Project;
- any buildings qualifying for noise insulation shall be assessed for overheating;
- where noise insulation or cooling or both are applied to a property, the Applicant shall be responsible for the initial capital, running costs, maintenance costs and future replacement costs; and
- there shall be an ongoing process to determine the effectiveness, durability and satisfaction with the noise insulation, ventilation and cooling measures.

6.4.62. The JWSLAs considered that corresponding changes would be reflected in the DCO and the noise insulation control document. Overheating and ventilation issues are considered in Chapter 15 Health and Wellbeing of this Report.

6.4.63. The LePAs in their closing statement [REP9-151] stated at paragraph 3.67 that they were supportive of the ExA's proposed substantial changes to the dDCO R18 dealing with the NIS and paragraph 1 of schedule 2 on interpretation. In particular they were supportive of the reduction in the eligibility thresholds to 54dB LAeq 16 and 48dB LAeq 8h, the provision for local authority involvement in the design of the scheme, and the new home relocation scheme proposed at sub-paragraph 5 of R18.

6.4.64. At paragraph 3.68 in their closing statement [REP9-151] the LePAs added that they still thought the NIS ought to be offered to residents living within the one additional awakening contour and that Appendix 3 [REP8-168] explained in detail why they thought it should be a SOAEL and why it would not necessarily coincide with the 48dB LAeq 8hr contour proposed by the ExA.

6.4.65. CAGNE raised concerns [REP2-070] and [REP5-121] about the Applicant's NIS in addition to those raised by the LePAs. These included that:

- unless the noise insulation measures were installed at the premises before the operation that caused the significant effect it could only be regarded as compensation as the significant effect would not be avoided, and this concern applied both to air noise and ground noise;
- the Applicant needed to clarify how it would deal with schools given the different criteria that would apply;

- there was uncertainty as to whether bungalows and static caravans would be included because the way the Applicant had referred to bedrooms being “upstairs”; and
- increases in the acoustic performance of windows from 15 dB reduction to 20 dB had not been justified.

6.4.66. Many IPs raised concerns about the adequacy of the financial contribution proposed by the Applicant for example Ruser Parish Council [REP1-259] considered that there should be a significant expansion of double and triple glazing funding. Later on [REP6-133] they noted that as Gatwick Airport Limited (GAL) proposed cost caps on individual properties this would enable the appointed contractor to unfairly exploit the system.

6.4.67. We asked the Applicant about its NIS in ExQ1 NV.1.12 to NV.1.19 [PD-012] and in their response [REP3-101] the Applicant confirmed its NIS would be adjusted so as to include nurseries and pre-schools that had teaching rooms. In other respects, their responses relied upon material considered under the assessment section of this Chapter and that elements of the NIS would be initiated after dual runway operations had commenced.

6.4.68. The ANPS includes the general statement at paragraph 5.240 that:

“In addition to controlling and reducing aircraft noise impacts, the applicant will be required to commit appropriate resources to mitigate the impacts of aircraft through noise insulation programmes for both private homes and public buildings such as schools.”

6.4.69. We again considered ANPS paragraph 5.53 and whether British Standards could provide guidance. BS 8233 has detailed recommendations about receptor based mitigation of aircraft noise at paragraph 6.3.2 which in particular explain how due account should be taken of the characteristics of aircraft noise and the operating modes of the airport.

6.4.70. Whilst technological advances have led to quieter aircraft, for example as described in ERCD 2302, we can see from the Applicant’s noise predictions [APP-039] and ERCD 2302 that homes and other premises are still likely to be above a SOAEL.

6.4.71. We have concluded at Table 6.2 what the S16 and S8 thresholds should be for aircraft noise, so in this Section we consider how could receptor based mitigation achieve the first aim of noise policy as set out in the ANPS at paragraph 5.68 to “avoid significant adverse impacts on health and quality of life” in the context of sustainable development.

6.4.72. With the exception of where temporal criteria may be relevant, as detailed in BS 5228, because of the temporary nature of construction noise, we consider that SOAEL values for continuous operations define the point at which, having accounted for all reasonable source and pathway measures, receptor based mitigation needs to be considered and may need to be offered by the Applicant in pursuit of the first aim of noise policy as presented in the ANPS.

6.4.73. We consider that homes that already have a good standard of glazing, ventilation, and measures to reduce solar gain, that would be predicted to be exposed slightly above S8 or S16 may require little if any additional mitigation measures to meet the BS 8233 guidelines. Whilst this may be a reasonable working assumption, we think it should be tested.

- 6.4.74. With regard to ground noise, the Applicant has proposed the same criteria for assessment as air noise, and subject to the amendments we have detailed for S8 and S16 we see no reason to disagree with this. We consider that for the purposes of assessing whether a premises needs to be considered for receptor based mitigation air noise and ground noise should be combined before comparison with these thresholds, and consider that assessment, design and installation should be completed in a timely manner so that significant adverse noise effects would be avoided.
- 6.4.75. For those who take up the Applicant's offer at the earliest opportunity, through R18 of the Applicant's final dDCO [REP10-004], we consider the Applicant's approach to phasing make it likely that those who would be considered significantly adversely affected, because of night-time aircraft noise would not have the mitigation installed in a timely manner and may not be considered at all.
- 6.4.76. We consider that as the Applicant has applied contribution limits to the package there is a lack of certainty as to whether significant effects on occupants would be avoided as the designs would be unduly constrained by these.
- 6.4.77. We consider there is substantial overlap between the Applicant's R18 in the dDCO [REP10-004] and its NIS [REP9-059]. We consider that the performance of glazing systems would not be as suggested in the context of homes and other premises affected by aircraft following departure routes, as discussed at ISH9 [EV20-007] in the context of BS 8233.
- 6.4.78. We consider that a design led approach based on the principles of the relevant British Standard would be consistent with the ANPS at paragraph 5.53. The design of the mitigation package would be adapted to achieve the guideline internal noise levels as set out in BS 8233 for the particular premises. This would aim to avoid significant noise effects within a dwelling both during the daytime and the night-time during the range of operating modes as detailed in BS 8233. For other types of premises, for example schools, hospitals and places of worship we consider that relevant guidance should be used in addition to BS 8233 as detailed in R18 of the rDCO.
- 6.4.79. With regard to the LePAs submission on linking a noise insulation scheme to one additional awakening [REP8-168], in addition to a SOAEL of 48 dB LAeq 8h, we recognise that this relies on airport specific mapping. Whilst we may speculate on the correlation between one additional awakening and the 48 dB LAeq 8h and how this might change with dual runway operations we are not sufficiently persuaded to propose this additional eligibility criterion.

ExA's Conclusion on Receptor Based Mitigation

- 6.4.80. We conclude that the Applicant's proposals set out in R18 of the dDCO [REP10-004] and its NIS [REP9-059] are insufficient to achieve the first aim of the ANPS at paragraph 5.68 to "*avoid significant adverse impacts on health and quality of life*" in the context of sustainable development.
- 6.4.81. We have set out our proposals in a new R18 in the rDCO, which we consider would, without reference to the Applicant's NIS [REP9-059], be sufficient to define a process for the consideration and implementation of receptor based mitigation that would achieve the first aim of the ANPS at paragraph 5.68 to "*avoid significant adverse impacts on health and quality of life*" in the context of sustainable development.

Air Noise Limits

- 6.4.82. The JSC's LIR [REP1-100] at Appendix C: Noise and Vibration – District and Borough Profiles included that:
- MVDC considered the proposed noise envelope was not fit for purpose as it did not align with policy requirements and the whole framework needed to be re-assessed to address their concerns over the limit values, the use of additional metrics, enforcement, monitoring, reporting, review and sanctions for breaches;
 - MVDC considered air traffic movement (ATM) limits for the airport's operation need to be preserved to prevent further creeping expansion. These would include the night noise regime of all aircraft movements of 11250 (summer) and 3250 (winter) period and total movement cap of all aircraft movements of 389,000 pa to align with the predicted capacity for 2047;
 - RBBC wished to see the existing movement cap in the core (23:30 to 06:00) night period of 11,200 movements over the 218 day summer period and 3,250 movements in the winter period retained;
 - RBBC were concerned about a number of aspects including that envelopes need to be based on central case rather than STC, improvements need to be locked in at each envelope review stage, the daytime contour needs to be based on 54 dB rather than the 51 dB, a primary control noise contour at night based on annual average (L_{night}) night contours needs to be included in addition to the 92 day summer period, and that additional event based metrics should be included. In addition, RBBC had concerns over GAL forecasting and the enforcement mechanism, including the role of the CAA and local authorities, and that enforcement should be linked to compensation in the event of a breach; and
 - TDC raised concerns regarding the air noise envelope and considered that it needed to be substantially redesigned, to achieve the aims set out in 'Noise envelopes' (CAP 1129) and thereby offer a degree of protection. TDC considered that the noise envelope as proposed would allow the noise climate around the airport to deteriorate whilst growth occurs which TDC considered was contrary to the ANPS policy at paragraph 5.60 of sharing the benefit of the improvements in technology with the local community and the International Civil Aircraft Organization (ICAO) Balanced Approach. TDC also raised concerns over how noise in the area could increase as well as the approach to enforcement.
- 6.4.83. The JWSLAs in its LIR [REP1-068] considered that the Applicant should consider implementing an approach similar to the Green Controlled Growth (GCG) Framework offered by London Luton Airport. JWSLAs considered that under this mechanism noise limits and controls would be set by the noise envelope and the airport's performance would be measured and monitored, by an independent group, against a number of noise metrics, controls and limits. JWSLAs considered that growth at the airport would be contingent on the experience of noise by communities being lower than the baseline, allowing the benefits of new technology to be shared between the airport and communities. JWSLAs considered that failure to adhere to these agreed limits would result in the cessation of further expansion (i.e. release of aircraft slots) until action has been taken.
- 6.4.84. With regard to noise envelopes the JWSLAs raised concerns in their LIR [REP1-068] which included that they considered it:
- needed a clear objective aligned with policy;
 - must be based on noise metric contours for the area to provide certainty;
 - must not increase with any successive envelope period;

- needed appropriate limits across all times of the year and during periods of the day;
- needed to adapt where evidence emerges that effects occur at lower thresholds or where new metrics are identified as explaining an adverse effect;
- would seek to reduce the overall exposure during the 8 hour night period;
- would ensure that improvement in one metric does not result in a deterioration in another;
- must be based on central case fleet not slow transition fleet; and
- needed to define an appropriate role for the local authorities and the Luton GCG Framework’s proposal for a scrutiny board is supported with the option to escalate matters to the LPA.

6.4.85. The JWSLAs considered that corresponding changes should be reflected in the DCO and the control document for the noise envelope.

6.4.86. In response to the Applicant’s Environmental Statement Addendum – Updated Central Case Aircraft Fleet Report [REP4-004] which showed a UCC, the JLAs response [REP5-094] at Appendix 1 included:

- that easyJet may deploy a greater proportion of its new aircraft at Gatwick;
- the rate of fleet transition by other airlines could accelerate;
- GAL could adopt pricing strategies, as adopted at other airports, to incentivise the use of next generation aircraft;
- the use of forward looking quota count budgets could be used to incentivise airlines to transition to next generation aircraft more quickly;
- new slots could be reserved for next generation aircraft only, as proposed in the London City Airport Planning application currently under consideration.

6.4.87. The JLAs concluded [REP5-094] that taking into account these factors:

- the Applicant’s CC fleet transition of 59% next generation aircraft by 2029 looked eminently attainable;
- setting limits by reference to the UCC would be too lax; and
- their analysis confirmed their provisional view that the Applicant’s UCC should rather be considered as a revised STC, with the most likely case still being represented by the CC.

6.4.88. The JLAs later confirmed in paragraphs 8.2 and 8.3 of their Response to the Applicant’s Deadline 6 Submissions [REP7-103] that they considered the CC as the appropriate basis for setting the noise contours.

6.4.89. Throughout the Examination the LePAs maintained their position that aircraft noise should be controlled alongside other environmental impacts as part of their proposals on EMG as confirmed in their closing statement [REP9-151].

6.4.90. CAGNE carried out some detailed analysis [REP5-121] of the Applicant’s UCC and STC and concluded that based on forecasts provided by the Applicant [REP4-004] and [REP3-071] comparing numbers of night-time arrivals for the STC and the UCC for specific next generation aircraft meant that the *“Applicant’s position cannot be correct.”*

6.4.91. CAGNE pointed out [REP8-144] the importance of using a core growth case with reference to the letter from the Department for Transport dated 2 August 2024 with regards to the recent London Luton Airport Expansion DCO application. Section 11 made it clear that the noise limit requirement it was requesting should be based on the core growth predictions set out in the application.

6.4.92. Gatwick Area Conservation Campaign (GACC) [REP7-132] responded to our further written questions (ExQ2) [PD-021] NV.1.10 with proposals that they considered would address Government policy in relation to noise limits, these included:

- an LAeq 16 h 51 dB peak summer season noise envelope limit of 108.8 km² for the period to 2038;
- a ban on night flights between 23.00 and 07.00;
- a noise envelope limit for the remainder of the British Summer Time period that requires noise to reduce materially in that period;
- a noise envelope limit for the winter day period that requires noise to reduce materially in that period;
- limits on aircraft movements between 22.00 and 23.00, a period of high community impact and sensitivity, to no more than operated in 2019; and
- limits on the noisiness of individual aircraft.

6.4.93. At paragraph 3.12 the APF says:

“The Government’s overall policy on aircraft noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.”

6.4.94. At paragraph 3.29 the APF explains that the benefits of future technological improvements should be shared between the airport and its local communities to achieve a balance between growth and noise reduction with the objective of incentivising airlines to introduce the quietest suitable aircraft as quickly as is reasonably practicable.

6.4.95. The ANPS explains at paragraph 5.60 that an applicant should put forward proposals for a noise envelope and it should be tailored to local priorities developed in consultation with relevant stakeholders and include clear noise performance targets. It goes on to re-iterate the underlying principle of the APF that the benefits of future technological improvements should be shared between the applicant and its local communities, hence helping to achieve a balance between growth and noise reduction.

6.4.96. We include for completeness what the OANPS says:

“The government’s overall policy on aircraft noise is to balance the economic and consumer benefits of aircraft against their social and health implications in line with the International Civil Aircraft Organisation’s Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.

The impact of aircraft noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aircraft noise.”

6.4.97. With regard to what the APF, ANPS and OANPS mean in total we consider that the OANPS confirms that all aircraft noise is included within the aims of policy as set out in the ANPS, not just ‘significant aircraft noise’. We do not consider that the OANPS changes the APF and ANPS position that Government expect that the benefits of technological progress are to be shared between operators and those affected. We see this as being consistent with the general principles of pollution control.

- 6.4.98. We consider that guidance exists as CAP 1731 with the relevant conclusion being that a locally set noise contour area limit at a particular noise level for both day and night for an airport would be a way of addressing the APF policy and by implication the ANPS second and third noise policy aims.
- 6.4.99. We consider that the Applicant's summary of how it set the limit as described in paragraph 11.5.112 of its closing submission [REP9-112] *"The forecast 2032 Leq contour area is therefore used to set the geographical boundary"* does not make it clear as to how the limit was derived from a sharing of benefits.
- 6.4.100. The Applicant introduced its revised noise limit values at ISH8 [EV17-015] which as confirmed at paragraph 11.5.75 of its closing submission [REP9-112] would mean that in terms of the 51/45 dB noise contour area values the 2019 value would not be exceeded. This comparison is shown in Table 6.3.

Table 6.3: Noise Contour Area Values

Noise contour	Enclosed area actual 2019 [REP4-004]	Enclosed area limit dDCO [REP10-004]
51 dB LAeq 16 h	136 km ²	135.5 km ²
45 dB Leq 8 h	159.4 km ²	146.9 km ²

- 6.4.101. Given the policy position indicated an airport could grow and should get quieter at the same time we considered it necessary to test whether we considered these noise limit values would be consistent with "sharing the benefits" so at ISH8 [EV17-018] we asked:
- "How much quieter would the updated fleet be between 2019 and 2029 in dB for the day and night time?"*
- 6.4.102. The Applicant responded at paragraph 3.1.1 of The Applicant's Response to Actions ISH 8: Noise [REP6-087].
- 6.4.103. We consider the response provided us with the predicted noise outcome from what the Applicant referred to as its UCC rather than the source levels that had been assumed in that case.
- 6.4.104. We asked a very similar question in ExQ2 NV.2.5 [PD-021] in an attempt to clarify this point further:
- "Comparing 2029 with 2019 how much quieter is the aircraft fleet expected to be in terms of source noise levels? Please provide sufficient details to support the response provided."*
- 6.4.105. In its response [REP7-089] the Applicant referred us to its previous response [REP6-087].
- 6.4.106. We could see that the APF summarised the effect of technological improvements in reducing in noise levels under test measurement conditions where it explains under "Key Facts" that ICAO required new types of smaller aircraft to be about 7 dB quieter in 2020.
- 6.4.107. We considered that this was consistent with the Applicant's Supporting Noise Technical Notes to Statements of Common Ground Version 2 [REP6-065] Appendix

E which described trends in engine noise in relation to engine ground running and concluded with *“the majority being around 7-9dB quieter.”*

- 6.4.108. We concluded that these underlying improvements were consistent with the supporting detail under *“Reduction of Noise at Source”* and *“Figure 2. The progression of the ICAO Noise Standards for aeroplanes.”* This identifies a 7 dB improvement between Chapter 4 (current generation) and Chapter 14 (next generation) aircraft of ICAO’s most recent publication.
- 6.4.109. In this publication ICAO says that four scenarios were developed for the noise trends assessment, with scenario 3 accounting for a post-Covid delay, with no noise technology improvements for aircraft entering the fleet from 2019 to 2023, and technology improvements of 0.2 EPNdB per annum for all aircraft entering the fleet from 2024 to 2050.
- 6.4.110. Assuming the ICAO scenario 3 reduction of 0.2dB per annum between 2024 and 2029 would imply a total reduction of 1 dB, suggesting 0.5 dB would be available as growth with 0.5 dB available as noise reduction. By comparing 2029, the forecast first year of dual runway operation with 2019, the last representative pre-Covid comparator year, and using the ICAO assumption that no reduction occurs between 2019 and 2023 implies that in overall noise terms 2029 could be 0.5 dB quieter than 2019 whilst at the same time the airport grows by an increase in ATMs equivalent to 0.5 dB.
- 6.4.111. Despite being aware that these reductions would only apply to aircraft entering the fleet, we considered that this way of expressing the limit would assist with progressing the Examination. Hence the following draft requirement was published ahead of ISH9 as Annex B of the Agenda for Issue Specific Hearing 9 Environmental Matters and was discussed at the hearing [EV20-001]:
- “From the commencement of dual runway operations, the operation of the airport shall be planned to achieve a predicted air noise level LAeq that: for an average summer day is at least 0.5 dB less than the value calculated for an average summer day in 2019; and for an average summer night is at least 0.5 dB less than the value calculated for an average summer night in 2019. 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 a predicted air noise level LAeq that: for an average summer day reduces by at least a further 0.5 dB; and for an average summer night reduces by at least a further 0.5 dB.”*
- 6.4.112. The Applicant disagreed with our proposed limits and in closing [REP9-112] said at paragraph 11.6.11 in summary that the airport’s growth would be restricted broadly to that forecast in the future baseline up to about 2038, that aircraft numbers after that would need to be reduced, the limits would be unworkable, and it would give all the benefits of future technology to the communities and none to the airport which was at odds with Government policy.
- 6.4.113. The LePAs analysed our proposals [REP9-148] and with regard to the 51 dB LAeq 16h contour the LePAs indicated that our proposals broadly followed the CC but to meet it would be challenging after the limit drops in 2034 unless account is taken of ICAO’s expectation for ongoing noise reductions with further new aircraft types being met.

- 6.4.114. With regard to the 45 dB LAeq 8h contour the LePAs indicated [REP9-148] that our proposal was less demanding than the CC until 2039 but with compliance beyond then becoming more challenging.
- 6.4.115. The LePAs conclusions [REP9-148] included that it remained their position, as stated in paragraphs 8.2 and 8.3 [REP7-103], that the CC is the appropriate basis for setting the noise contours and it can be seen that for the period to 2035 our proposal tracks this reasonably well.
- 6.4.116. The Applicant explained how it created its UCC forecast [REP4-004]. From our inspection of Diagram 2.3 of that document we note that it shows the percentage of aircraft that had transitioned to next generation for the whole operating year, and we have presented this in Table 6.4.
- 6.4.117. We have compared this with the same analysis for the average summer day, as it is that which would determine the noise exposure compared with any daytime limit set. The information can be found in the ERCD reports for 2019 until 2022. Since 2016 these noise contour reports have been produced by the ERCD commissioned directly by GAL. This comparison is shown in Table 6.4.

Table 6.4: Noise Contour Reports - 2019 to 2022

% LGW aircraft transitioned to next generation	2019	2020	2021	2022
Summer day ERCD reports	62	63	65	69
Whole year [REP4-004]	13	21	26	20

- 6.4.118. This shows that the transition rate for aircraft that fly in the summer has continued to trend upwards including the Covid years and has followed a different trend to that reported by the Applicant [REP4-004] for the whole of the same years. We consider that this tends to favour the position of the LePAs that the CC should be used as the basis of any noise limits that would only apply to the peak summer months as discussed in the assessment section.
- 6.4.119. Considering CAGNE’s submission regarding the Applicant’s UCC [REP5-121] we can see with reference to Graph 1 for 2032 summer arrivals, that the STC has a much higher number of next generation aircraft, than the UCC. This we consider is at odds with the Applicant’s characterisation of the UCC and tends to support the JLAs view that the UCC is a revised STC [REP5-094].
- 6.4.120. In its closing statement [REP9-112] at 6.4.73 the Applicant listed nine different interventions under the headings of “*Pre-emptive management*”, “*Season-ahead controls*” and “*In-season controls*” that it could bring into play to manage compliance with its proposed noise limit.
- 6.4.121. We understand the general point made by all IPs that the rate at which airlines transition their fleet determines the rate at which quieter technology is realised. We have though not seen any revised forecasts, based on the assumption that the Order was made with reducing noise limits, as to how this might accelerate.
- 6.4.122. We have noted the LePAs general support [REP8-168] for our initial proposal of 0.5 dB reduction for day and night and given that the ANPS states at paragraph 5.60 that the “*design of the envelope should be defined in consultation with local*

communities” we consider that it would be consistent with the outcome of such a consultation.

- 6.4.123. Given that the OANPS refers to total aircraft noise effects we see no reason to disagree with the use of the 51 LAeq 16 h and 45 dB LAeq 8 h noise contours on the basis they are the values, referred to in ANG 2017 as community LOAELs, as described elsewhere in this Chapter. We note that the London Stansted Airport planning appeal decision, sought to limit only significant aircraft noise effects in accordance with the APF position as modified by CAP 1506, and set a condition in relation to the 54 dB LAeq 16 h and 48 dB LAeq 8 h noise contours.
- 6.4.124. As we have concluded in Chapter 4 of this Report that the Applicant’s forecast rate of growth has probably been overstated, we consider this would assist GAL in achieving a lower noise limit than they have proposed, because there would likely be fewer ATMs.
- 6.4.125. Taking all important and relevant matters into consideration we have amended our initial proposals [EV20-001]. This would make it more flexible and workable through conversion of the 0.5 dB reduction to a % area reduction which we consider is consistent with advice provided in CAP 1731. The % area contour change has been aligned to the value of 8% provided in the LePAs analysis [REP9-148]. We also propose to limit any further reduction to the night-time period only to recognise the uncertainty in further noise reductions being achieved as new aircraft types are introduced as shown in their analysis.
- 6.4.126. We consider that the LePAs EMG Framework proposes to integrate noise alongside other environmental topics with the involvement of the LePAs in its implementation through a tiered committee structure. As each topic is dealt with separately in the ANPS it is not clear to us how this would achieve policy consistency with regard to noise. We consider there is the possibility that an impact in one topic or geographical area may be offset against an impact elsewhere, with the result that the policy position is compromised with regard to noise. We consider that noise impacts would be felt in geographical areas potentially not represented on the committees that would implement the EMG Framework. We do not consider that this approach is consistent with the approach to environmental noise management set out in the ANPS.
- 6.4.127. The IP submissions already referred to included concerns about how any limit would be achieved, how to monitor compliance, what happens if a breach occurs, when and how to review the limit, under what circumstances might the limit need to be changed outside of any planned review process, and who should be involved in these processes. These included the JLAs proposed changes to the Applicant’s controls should EMG Framework not be accepted [REP7-102] paragraphs 7.23-7.25 on how the Applicant could use various methods to plan their operation to achieve any noise limits set.
- 6.4.128. We consider that the approach adopted in the London Stansted Airport planning appeal decision is a relatively good comparator in terms of the scope of any proposed Requirement. It is about airport modifications to achieve passenger growth and it is at a designated airport, so has Government controls in place. It was also a recently decided (2021) case and the aircraft policy framework was set by APF and ‘Beyond the horizon The future of UK aircraft Making best use of existing runways June 2018’. We consider that Condition 7 of the London Stansted Airport planning appeal decision secured the aircraft noise limits for that expansion, and the

monitoring arrangements, so we see no good reason to go beyond it in terms of scope, for any corresponding Requirement in the rDCO.

ExA's Conclusion on Air Noise Limits

- 6.4.129. We conclude that the Applicant's proposals set out in R15 and R16, and Schedule 11 Part 2 of its final dDCO [REP10-004] supported by its Environmental Statement - Appendix 14.9.7 The Noise Envelope [REP10-011] would not sufficiently share the benefits as set out at paragraph 5.60 of the ANPS and paragraph 3.29 of the APF. As a result, we conclude that the Applicant's proposals are insufficient to achieve the second aim of the ANPS at paragraph 5.68 to "*mitigate and minimise adverse impacts on health and quality of life*" in the context of sustainable development.
- 6.4.130. We have set out our proposals for a new requirement in the rDCO that replaces R15 and R16 of the of the Applicant's final dDCO, which we consider would share the benefits of quieter aircraft as set out at paragraph 5.60 of the ANPS and paragraph 3.29 of the APF. We consider that this would achieve the second aim of the ANPS at paragraph 5.68.

CONSTRUCTION NOISE AND VIBRATION

- 6.4.131. In the JSCs LIR [REP1-100] RBBC raised concerns with regard to construction noise and proposed changes to the CoCP, including restrictions to some construction methods, reduced construction working hours, changes to mitigation thresholds, specific mitigation in the form of noise barriers, and the offer of respite when heatwave conditions coincided with adverse noise impacts at night.
- 6.4.132. In the JSCs LIR [REP1-100] MVDC raised concerns about noise and vibration during construction and considered that the proposed mitigation was insufficient.
- 6.4.133. By the close of the Examination the LePAs in their closing statement [REP9-151] stated that the CoCP had been updated [REP8-025] but concerns remained over percussive piling, complaint reporting, working hours, and temporary noise barriers. The LePAs considered that noise control measures accounted for in the construction noise and vibration assessments in Chapter 14 [APP-039] cannot be relied upon if the mitigation measures are not secured.
- 6.4.134. Paragraph 5.53 of the ANPS explains that for the prediction, assessment and management of construction noise, reference should be made to British Standards and other guidance which give examples of mitigation strategies, and the British Standard that provides guidance on construction noise and vibration, in relation to human receptors, is BS 5228.
- 6.4.135. We consider that the Applicant's approach, which follows that recommended in BS 5228, has been consistent with the ANPS and has used the appropriate guidance in its assessment and mitigation proposals. We recognise that any construction noise and vibration assessment and mitigation design carried out at this stage of the Proposed Development has to be regarded as having a high degree of uncertainty. We consider that the designs are at a rudimentary level and construction methods have yet to be confirmed.
- 6.4.136. Construction noise and vibration is regulated by the statutory regime detailed in CoPA 1974 s60 and s61. Whilst those undertaking construction works would apply to the relevant LPA for prior consent under s61, to the extent this is secured by R7 of the final dDCO [REP10-004] and the CoCP [REP8-024], we see no reason why any LPA could not impose conditions, potentially in addition or different to any

commitments included in the CoCP, that they regarded as necessary to achieve the policy aims.

- 6.4.137. In situations where a s61 prior consent application was not made the relevant LPA can use its powers under s60 to specify measures that it considers necessary to achieve the policy aims.

ExA's Conclusion on Construction Noise and Vibration

- 6.4.138. We conclude that the Applicant's approach to assessment and mitigation is in line with the ANPS at paragraph 5.53.
- 6.4.139. We conclude that the regulatory regime outlined above is sufficient to address the outstanding concerns of the LePAs, to the extent that this would be necessary to achieve policy compliance, and we see no reason to recommend any changes to the final dDCO [REP10-004] with respect to construction noise and vibration.

ROAD TRAFFIC NOISE

- 6.4.140. The Proposed Development includes proposals to modify the strategic road network to the extent that the 'National Networks National Policy Statement 2015 (NNNPS)' is important and relevant.
- 6.4.141. The NNNPS explains that the Proposed Development should demonstrate good design through optimisation of scheme layout to minimise noise emissions and, where practicable and sustainable, the use of landscaping, bunds or noise barriers to reduce noise transmission.
- 6.4.142. Guidance relevant to the road network sector is set out in DMRB LA 111 which sets out operational noise effect threshold levels in Table 3.49.1.
- 6.4.143. In the JSC's LIR [REP1-100] Appendix C: Noise and Vibration – District and Borough Profiles RBBC asked that a low noise surface be used on A23 London Road (as a minimum), A23 Airport Way, and out to Junction 9 with the M23 and the installation of a noise barrier (2m minimum) from the Longbridge Roundabout to the proposed new junction with the A23 London Road.
- 6.4.144. We consider that the Applicant's approach has been consistent with the NNNPS and has used the appropriate guidance in its assessment and mitigation proposals.
- 6.4.145. We found nothing in the LePAs closing statement [REP9-151] to suggest to us that they disagreed with the Applicant's approach to road traffic noise, their assessment, and proposals for mitigation.

ExA's Conclusion on Road Traffic Noise

- 6.4.146. We conclude that the Applicant's approach to assessment and mitigation is in line with NNNPS policy at paragraphs 5.235 to 5.242 and uses relevant guidance.
- 6.4.147. We conclude there are no outstanding issues between the Applicant and other IPs, and we see no reason to recommend any changes to the final dDCO [REP10-004] with regard to road traffic noise to achieve policy compliance.

6.5. ExA's CONCLUSION ON NOISE AND VIBRATION

- 6.5.1. With regard to aircraft noise, we conclude that the Applicant has not met the requirements of ANPS paragraph 5.53 with respect to the assessment of aircraft noise and ANPS paragraph 5.60 with respect to the avoidance of significant noise effects and the minimisation of adverse noise effects from aircraft noise. As a result, we ascribe moderate weight to the issue of noise and vibration against the making of the Order in the form represented by the Applicant's final dDCO [REP10-004].
- 6.5.2. Subject to our proposed modifications to Requirements R1, R15, R16, and R18, and Schedules 11 and 14 in the rDCO as detailed in Chapter 22 being accepted, having had due regard to the ANPS the NNNPS and other important and relevant matters, we conclude that neutral weight should be given to the issue of noise and vibration in the overall planning balance of the Proposed Development.

7. AIR QUALITY

7.1. INTRODUCTION

7.1.1. This Chapter considers the effects of the Proposed Development in relation to air quality during its construction and operation.

7.1.2. This Chapter provides details regarding the effects on people. In relation to effects on ecology see Chapter 14 of this Report.

7.2. POLICY BACKGROUND

7.2.1. Paragraph 5.33 of the Airports National Policy Statement (ANPS) says that the Environmental Statement (ES) should assess:

- existing air quality levels for all relevant pollutants referred to in air quality regulations;
- the baseline position for all relevant air quality pollutants at the time of opening, without the Proposed Development, and the impact of the Proposed Development, including when at full capacity; and
- any likely significant air quality effects of the Proposed Development, their mitigation, and any residual likely significant effects, during its construction and operation, including impacts arising from road and other surface access traffic.

7.2.2. With regard to decision making the ANPS says at paragraph 5.42 that the Secretary of State would need to be satisfied that, with mitigation, the Proposed Development would be compliant with legal obligations that provide for the protection of human health.

7.2.3. At paragraph 5.43 the ANPS goes on to explain that air quality considerations are likely to be particularly relevant where the Proposed Development:

- is within or adjacent to Air Quality Management Areas (AQMA) or roads identified as being above limit values;
- would bring about the need for new AQMA or change the size of an existing AQMA, or bring about changes to exceedances of the limit values; and
- after taking into account mitigation, would lead to a significant air quality impact or to a deterioration in air quality in a zone or agglomeration.

7.2.4. A similar approach can be found in the National Planning Policy Framework (NPPF) so that planning decisions sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMA and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

Local Air Quality Management

7.2.5. As set out in the ES - Chapter 13 - Air Quality [REP3-018] legislation imposes statutory duties on local authorities with regard to air quality. These include that they have to:

- carry out a process of local air quality management and declare AQMA where necessary; and
- for each AQMA, produce an action plan to ensure standards are met for air quality management areas.

7.3. THE APPLICATION

- 7.3.1. The Applicant set out in the ES - Chapter 13 - Air Quality [REP3-018], five sets of figures [APP-066 to APP-070] and fourteen appendices its approach to and assessment of effects on air quality.
- 7.3.2. The Applicant set out the air quality standards for the pollutants of most relevance to its assessment for the protection of human health and ecosystems, obtained from the Air Quality Standards Regulations 2010 (amended in 2016) (UK Government, 2016).
- 7.3.3. During the construction of the Proposed Development the Applicant considered the potential for:
- dust generation causing annoyance due to dust soiling and human health impacts due to increased particulate matter less than 10 micrometres in diameter (PM₁₀) concentrations;
 - emissions from construction vehicles and non-road mobile machinery causing human health impacts from increased Nitrogen Dioxide (NO₂), PM₁₀ and Particulate matter less than 2.5 micrometres in diameter (PM_{2.5}) concentrations; and
 - emissions from construction road traffic causing human health impacts due to increased NO₂, PM₁₀ and PM_{2.5} concentrations.
- 7.3.4. During the operation of the Proposed Development the Applicant considered the potential for:
- emissions from road traffic causing human health impacts from increased NO₂, PM₁₀ and PM_{2.5} concentrations;
 - aircraft emissions causing human health impacts from increased NO₂, PM₁₀ and PM_{2.5} concentrations;
 - emissions from airport operations/ combustion plant causing human health impacts due to increased NO₂, Nitrogen Oxides (NO_x), PM₁₀, and PM_{2.5} concentrations; and
 - increased emissions of odours from operations (eg aircraft fuel, other airport operations/plant) causing annoyance.
- 7.3.5. For construction and operation, the Applicant used relevant Environmental Protection UK and Institute of Air Quality Management guidance to determine:
- the study area;
 - the identification of sensitive receptors; and
 - significance criteria.
- 7.3.6. The Applicant used the Atmospheric Dispersion Modelling System (ADMS) ADMS - Airport and ADMS 5 dispersion models to predict annual mean concentrations for the pollutants of concern at sensitive human receptors.
- 7.3.7. The Applicant described the measures that would be taken to minimise air quality impacts during construction in its Code of Construction Practice (CoCP) [REP9-031].
- 7.3.8. During operation the Applicant compiled an emissions inventory by considering sources including:

- aircraft main engines in the landing and take-off period both at ground level and at height;
- ground support equipment and other airport sources;
- aircraft auxiliary power units;
- road vehicles on the local highway network (split into airport and non-airport related emissions); and
- vehicles at car parks.

7.3.9. The assessment periods considered by the Applicant included:

- 2024-2029 construction period for airfield works;
- 2029-2032 construction period for surface access improvements;
- 2029 first full year of the Proposed Development opening; and
- 2032, 2038 and 2047 as interim, design, and final assessment years respectively.

7.3.10. The Applicant explained that the future baseline conditions for the respective assessment years have been established taking into account committed developments in the area and anticipated emissions from the airport's operation and road traffic without the Proposed Development, as set out in ES Chapter 4: Existing Site and Operation [APP-029].

7.3.11. The Applicant noted that the Hazelwick AQMA was declared by Crawley Borough Council in 2015 and the Horley AQMA was declared by Reigate and Banstead Borough Council in 2002. The Applicant stated that both of these are within the 11 km by 10 km domain centred on the airport.

7.3.12. The Applicant noted that the largest emission source for NO_x, PM₁₀ and PM_{2.5} would be non-airport road vehicles for all of the years assessed. The Applicant considered this was because of the large extent of the road network modelled, encompassing the Affected Road Network for all modelled scenarios.

7.3.13. The Applicant described airport related traffic in Appendix 13.4.1: Air Quality Assessment Methodology [APP-158] as including passenger cars, light and heavy goods vehicles related to the airport's operations, buses, coaches and staff cars.

7.3.14. The Applicant concluded [REP3-018], based on its air quality impact assessment undertaken for the ES, and accounting for the mitigation measures secured within its draft Development Consent Order (dDCO) [REP10-004] that the construction and operation of the Proposed Development would not cause any significant residual air quality effects.

7.4. ISSUES CONSIDERED DURING THE EXAMINATION

7.4.1. The Joint Surry Councils (JSCs) raised concerns in their Local Impact Report (LIR) [REP1-097] and the Joint West Sussex Local Authorities in their LIR [REP1-068] including:

- the lack of dust and odour management plans;
- the lack of an air quality action plan;
- changes in concentrations of PM_{2.5} not being considered to be a good indicator of the general risk associated with exposure to fine and ultrafine particulates (UFPs);
- the use of the interim target of 12 micrograms per cubic metre (µg/m³) rather than the 2040 target of 10µg/m³ when determining the impacts of PM_{2.5};

- Article 49 of the dDCO [REP10-004] providing a defence to proceedings in respect of statutory nuisance (including odour) going beyond the precedent set in recent development consent orders;
- how the assessment would look if a 20 µg/m³ annual limit value for nitrogen dioxide was adopted rather than the existing limit value of 40 µg/m³;
- the lack of air quality modelling for 2047; and
- the lack of confirmed funding for local authority pollutant monitoring (NO_x, NO₂ and PM₁₀ and PM_{2.5}) beyond 2038.

7.4.2. Through our first written questions (ExQ1) [PD-012] we asked:

- what impact the delay to the proposed ban on petrol and diesel cars would have on the Applicant's assessment;
- whether the impact of the Proposed Development would be sufficient to bring about the need for new AQMAs or change the size of the existing AQMAs; and
- for the Applicant to add air quality, dust and odour management to the list of topic specific plans identified as annexes of the CoCP [REP9-031].

7.4.3. The Applicant's response [REP3-083] included confirmation to the effect that:

- their assessment conclusions would not change in light of the delay in the ban on petrol and diesel cars;
- the Proposed Development would not result in any new exceedances of the national air quality standards, and as such no local authority would be required to consider extending any existing AQMA or creating any new AQMAs; and
- measures for odour management and for managing emissions from vehicles and machinery during construction would be based on best practice industry guidance but they would include a dust management plan as an annex to the CoCP.

7.4.4. The Legal Partnership Authorities (LePAs) response [REP3-135] wished to see the Applicant's CoCP include more detail on air quality matters including dust monitoring and management measures.

7.4.5. In response to the Applicant's answers to ExQ1 the LePAs [REP4-069] raised several detailed technical queries regarding ongoing monitoring, the variability of air quality readings and the potential for 'hot spots, which showed measured values that did not always align with the Applicant's predictions.

7.4.6. Matters relating to air quality were discussed at Issue Specific Hearing 7 (ISH7) [EV11-001]. The Applicant's response to actions [REP4-037] included a detailed technical response on UFPs and clarifications on other matters raised.

7.4.7. The Applicant in its closing statement [REP9-112] confirmed that:

- an air quality action plan, support for air quality monitoring and support for work on UFPs, was included in Schedule 1 of its final s106 agreement with the LePAs [REP10-019];
- an odour monitoring and management plan (OMMP)[REP9-108] would be secured by Requirement (R) 35 of the dDCO [REP10-004]; and
- a revised construction dust management strategy [REP10-009] annex 9 to the CoCP would be secured by R7 of the dDCO [REP10-004].

7.4.8. With regard to forecasting for 2047 the Applicant considered that the results of the detailed modelling for scenarios 2032 and 2038 showed no significant impacts with conservative assumptions applied. The Applicant considered that national efforts to

reduce emissions combined with its conservative assumptions justified the omission of detailed modelling for 2047.

7.4.9. The LePAs closing statement [REP9-151] maintained their position that:

- the air quality assessment should have included forecasts of the levels of all relevant pollutants when the scheme would be operating at full capacity;
- air quality needed to be included in the controls delivered by its Environmentally Managed Growth (EMG) Framework; [REP7-102 and REP7-103], or by some similar measures requiring remedial action to be taken (with the detail of any such measures being for approval by the local authority prior to commencement);
- the OMMP should have been strengthened as detailed in the Requirement proposed by the ExA in its Annex B to ISH9 agenda [EV20-001]; and
- the exclusions from statutory nuisance proceedings in Article 49 went too far as explained in their consolidated submissions on the dDCO [REP8-163].

7.4.10. With regard to the LePAs proposal for an EMG Framework, as there has been no disagreement with the Applicant's conclusion that operation of the Proposed Development would not cause significant air quality effects, we consider that the need for an EMG Framework secured by the DCO to achieve the policy requirements does not exist and we agree with the Applicant's closing statement [REP9-112] at paragraph 6.5.11 that there is no precedent for it in made consent decisions.

7.4.11. We are mindful that the Applicant and the LePAs have concluded a s106 agreement [REP10-019] which includes air quality arrangements, hence with regard to measures that would have been similar to those that would have been introduced in the EMG Framework, we were not persuaded that there was a need to add to the draft dDCO [REP10-004].

7.4.12. We recognise the practical difficulties in the measurement and monitoring of odour during construction and operation and in the context of the consideration of air quality issues against the ANPS we consider the Applicant's proposals to be sufficient.

7.4.13. In its final version of the dDCO [REP10-004] the Applicant reduced the number of exclusions from statutory nuisance proceedings in Article 49, removing nuisances arising from the emission of fumes or gases from the list. With regard to air quality, we consider the Applicant's revised Article 49 to be appropriate.

7.5. ExA's CONCLUSION ON AIR QUALITY

7.5.1. The Applicant's conclusion was that the construction and operation of the Proposed Development would not cause any significant adverse air quality effects. This conclusion had not changed during the course of the Examination. No substantive evidence was put before us that challenges this conclusion.

7.5.2. As reported in Chapter 5, we have concerns over the reliability of the Applicant's transport assessment because of concerns over the baseline. We consider that a larger change in traffic would cause a larger change in air quality. As the predicted total concentrations would not change from the values reported in the ES, we conclude that the Applicant's assessment of no significant residual effects on air quality would be unaltered.

- 7.5.3. During the course of the Examination the Applicant modified its proposals for odour and construction dust management and we recognise that the Applicant and the LePAs have reached a s106 agreement [REP10-019] on a range of measures that would support local air quality monitoring and further work in relation to UFPs. UFPs are considered in further detail in Chapter 15 Health and Wellbeing of this Report.
- 7.5.4. With regard to the outstanding areas of disagreement between the Applicant and the LePAs we do not consider they are sufficient to compromise the Proposed Development when compared with the requirements of the ANPS, so do not consider it necessary to recommend changes to the Requirements in Schedule 2 of the dDCO [REP10-004] with respect to air quality.
- 7.5.5. Having had due regard to the ANPS the NNNPS and other important and relevant matters, we conclude that neutral weight should be given to the issue of air quality in the overall planning balance of the Proposed Development.

8. GREENHOUSE GAS EMISSIONS

8.1. INTRODUCTION

- 8.1.1. This Chapter addresses greenhouse gas (GHG) emissions. The Environmental Statement (ES) contained Chapter 15: Climate Change [APP-040] and Chapter 16: Greenhouse Gases [APP-041]. Chapter 15 concerns the potential effects of current and future climate change on the Proposed Development. ES Chapter 16 provides an assessment of the effects of the Proposed Development on the global atmosphere resulting from the generation of GHG emissions. Chapter 9 of this Report addresses climate change.
- 8.1.2. Climate change, and particularly issues related to GHG emissions, was the second most common issue raised in Relevant Representations (RRs) with over 1700 comments. 'Climate Change and Greenhouse Gas Emissions' was identified within the Initial Assessment of Principal Issues (Annex C [PD-009]).

8.2. LEGISLATION AND POLICY

LEGISLATIVE CONTEXT

- 8.2.1. Legislation specific to the assessment of GHG emissions as described in the ES Chapter 16 [REP4-005] comprises the Infrastructure Planning (Environmental Impact Assessment) Regulations, 2017; the Climate Change Act, 2008 (CCA2008); the Air Navigation (Carbon Offsetting and Reduction Scheme for International Aviation) Order, 2021 (CORSIA) and the Greenhouse Gas Emissions Trading Scheme Order, 2020 as amended by the Greenhouse Gas Emissions Trading Scheme (Amendment) Order, 2022.
- 8.2.2. The amended Section 1 of the CCA2008 sets a legally binding GHG emissions reduction target for the UK of 100% by 2050, compared to a 1990 baseline (the 'net zero' target). This revised target was introduced in 2019 as a change from the previous 80% reduction target. The Committee on Climate Change (CCC) recommends five-year national carbon budgets to achieve this target.
- 8.2.3. The most recent UK carbon budget recommendation is the Sixth Carbon Budget (2022) covering the period 2033-37 which was the first to fully reflect the revised net zero target for 2050. This was adopted by the UK Government in The Carbon Budget Order, 2021. Following recommendations by the CCC, the Sixth Carbon Budget formally includes emissions from international aviation. Prior to this, UK carbon budgets included only domestic aviation emissions and left 'headroom' within the budget for international aviation (and shipping) emissions.

NATIONAL PLANNING POLICY

- 8.2.4. Paragraphs 5.69 to 5.83 of the Airports National Policy Statement (ANPS) relate to carbon emissions. Paragraph 5.70 states that the Government's key objective on aviation emissions, is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions. Paragraph 5.77 requires the assessment to consider worst-case scenarios.
- 8.2.5. Paragraph 5.76 requires the applicant to provide evidence of the carbon impact of the project such that it can be assessed against the Government's carbon obligations, including but not limited to carbon budgets. It states that the applicant

should quantify the GHG impacts before and after mitigation to show the impacts of the proposed mitigation.

- 8.2.6. Any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the project “*is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets*” (ANPS para. 5.82). This policy test is repeated in paragraph 5.18 of the National Networks National Policy Statement (NNNPS) (2015) although paragraph 5.17 of the NNNPS states that it is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets.
- 8.2.7. The Secretary of State (SoS) will need to be satisfied that the mitigation measures put forward by the applicant are acceptable, and the applicant is expected to limit the carbon impact of the project (ANPS paragraph 5.78) while paragraph 5.83 requires evidence of appropriate mitigation measures. The ANPS notes that the SoS’s view of the adequacy of the mitigation measures relating to design, construction and operational phases will be a material factor in the decision-making process. This requirement also occurs in paragraph 5.19 of the NNNPS.
- 8.2.8. The National Planning Policy Framework (NPPF) (2023) also recognises that there is a need to move to a low carbon economy. Section 14 of the NPPF states that the planning system should help to “*shape places in ways that contribute to radical reductions in GHG emissions*” (paragraph 157). Paragraph 159 states that new development should be planned in ways that reduce GHG emissions while paragraph 162 states that new development should comply with policies or local requirements for decentralised energy supply.

OTHER RELEVANT POLICY

- 8.2.9. Other national policy of relevance to the issue of GHGs includes the Aviation Policy Framework (APF) (2003), Flightpath to the Future (2022), Beyond the Horizon -The Future of Aviation: Making Best Use of Existing Runways (MBU) (2018), the Jet Zero Strategy: Delivering Net Zero Aviation by 2050’ (JZS) (2022) and the Transport Decarbonisation Plan (TDP) (2021). ES Chapter 16 (Table 16.2.2) [REP4-005] also sets out local planning policies of relevance to GHG emissions covering such matters as sustainable design, construction and development.

8.3. THE APPLICATION

INTRODUCTION

- 8.3.1. ES Chapter 16 [REP4-005] provides an assessment of the likely significant effects of the Proposed Development on GHG emissions during the construction and operation of the Proposed Development. GHG emissions were identified from four sources: construction, airport buildings and ground operations (ABAGO), surface access and air traffic movements. ES Chapter 16 is supported by a range of Appendices [APP-189 to APP-194] which include assessments of GHG emissions for each of these four sources [APP-191 to APP-194].
- 8.3.2. At Deadline (D) 4 the Applicant submitted a revised version of ES Chapter 16 [REP4-005]. This corrected a discrepancy within the values at ES Table 16.9.11 of ES Chapter 16 [APP-041] but did not impact on the overall conclusions within Chapter 16.

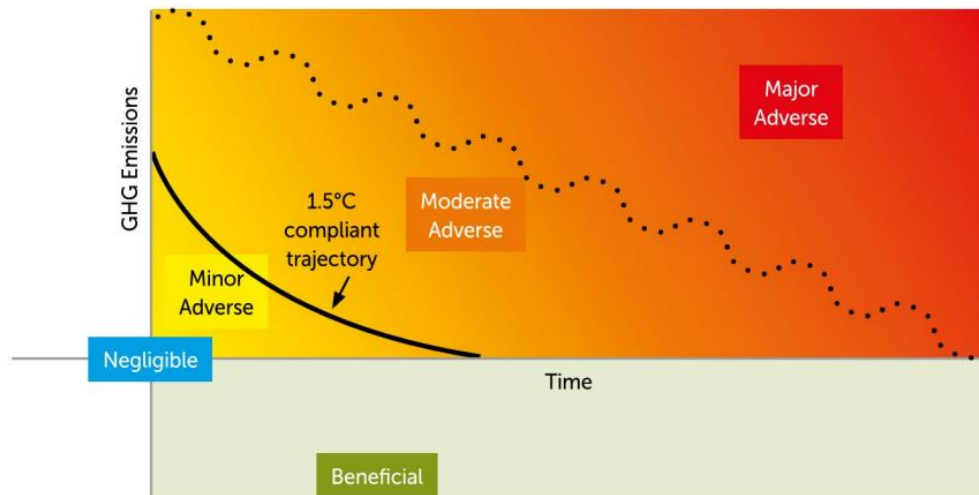
ASSESSMENT METHODOLOGY

- 8.3.3. Paragraph 16.4.4 of the ES [REP4-005] notes that the assessment seeks to understand the scale of changes in GHG emissions and the materiality of these on the ability of the UK Government to meet its climate obligations. It considers the context and impact of changes in GHG emissions with reference to the mitigation as part of the Proposed Development and the guidance in the Institute of Environmental Management and Assessment (IEMA) Environmental Impact Assessment Guide to: Assessing Greenhouse Gas Emissions and Evaluating their Significance 2nd Edition (2022) (the IEMA Guidance).
- 8.3.4. Recognising the Government's commitment to GHG reduction targets and the aim to ensure that the trajectory of downward emissions from aviation is met, the assessment adopts the High-Ambition scenario within the JZS. This is predicated on measures to reduce aircraft emissions to achieve residual emissions of 19.3 million tons of carbon dioxide equivalent (MtCO₂e) in 2050 which are to be offset or removed. A sensitivity case also considered the Slow Fleet Transition (SFT) scenario under which newer aircraft are not brought into service as quickly as in the core-case scenario. The assessment assumes that transport related GHGs will follow the commitment to decarbonise transport in the UK by 2050 in the TDP.
- 8.3.5. The assessment considered where the Applicant had proposed measures to reduce future GHG emissions associated with the Proposed Development (and in some cases with existing airport operations). The commitments are set out in ES Appendix 5.4.2: Carbon Action Plan (CAP) [APP-091] which includes measures to limit or reduce GHG emissions associated with construction, ABAGO and aviation and ES Appendix 5.4.1: Surface Access Commitments (SAC) [APP-090] which includes measures associated with surface transport.
- 8.3.6. The baseline year against which future GHG emissions would be evaluated is 2018. The future baseline GHG emissions were established using current GHG projections drawn from national and international sources (ES Table 16.6.2 [REP4-005]). These reflect the opening year of the altered northern runway (2029), design year (2038), future year (2047), and the net zero year (2050). Predicted GHG emissions were compared against baseline and future baseline to evaluate the impact of the Proposed Development with respect to GHG emissions.
- 8.3.7. The ES acknowledges that while guidance on assessments is presented in the IEMA Guidance and the ANPS there is no single consolidated approach to assessing the impact and significance of GHG emissions. Nevertheless, the Applicant has adopted the methodology and approach recommended in the IEMA Guidance. It recognises that all new carbon emissions cause a negative environmental impact, but the significance of impacts should be based on the net impact over time. Where GHG emissions cannot be avoided the goal of the Environmental Impact Assessment (EIA) process should be to reduce the project's residual emissions at all stages. (IEMA Guidance paragraph 6.1). Impacts should be seen in the context of wider policy initiatives and particularly the staged reductions in emissions through the UK carbon budgets.

"The crux of significance therefore is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050." (IEMA para. 6.2).

8.3.8. ES Diagram 16.4.1 shows different levels of future emissions to support the appraisal of significance compared to the UK's net zero compatible trajectory and is reproduced from the IEMA Guidance below as Figure 8.1.

Figure 8.120: Different Levels of Significance Plotted Against the UK's Net Zero Compatible Trajectory



Reproduced from Institute of Environmental Management and Assessment, 2022

8.3.9. ES Table 16.5.1 [REP4-005] sets out the main assumptions that informed the development of GHG estimates including the commitments made in the CAP and SAC. The assumptions reflect the Government's target to achieve net zero by 2050 and the strategies to achieve that outcome.

8.3.10. Through the CAP [APP-091] the Applicant committed to achieving net zero for Scope 1 and 2¹¹ emissions by 2030, and zero emissions for Scope 1 and 2 by 2040. The CAP commitments were assessed as part of the GHG assessment because they provide committed goals in accordance with the IEMA Guidance. Through the SAC [APP-090] the Applicant committed to achieving specific levels of lower emission transport modes for passengers and staff accessing the airport.

ASSESSMENT OF EFFECTS

8.3.11. The assessment of effects from the Proposed Development are presented under each of the four emissions areas. In line with the IEMA Guidance the evaluation of significance considered:

- the scale of emissions resulting from the Proposed Development, after embedded mitigation, and how these add to future baseline emissions; and
- the extent to which future annual emissions levels reduce over time, contextualisation of the extent to which these support wider efforts to reach net zero, and whether emissions trajectories render emissions as significant.

¹¹ Scope 1: direct emissions of GHGs from plant, equipment and vehicles owned by the reporting corporate entity. Scope 2: indirect emissions of GHGs associated with purchased electricity, steam, heating and cooling. Scope 3: other GHG emissions arising from the activities of the organisation including those associated with construction, transportation, waste, water, business travel and employee commuting.

- 8.3.12. The assessment of each emissions area compared the overall magnitude of emissions for future assessment years against the UK carbon budgets. The assessment also considered how each area increases/ reduces GHG emissions relative to a comparable baseline consistent with a trajectory toward net zero by 2050. ABAGO emissions are contextualised against the CCC Balanced Pathway trajectory for non-domestic buildings; surface access emissions are contextualised against the CCC Balanced Pathway trajectory for UK surface access; and aviation emissions are contextualised against the UK Jet Zero trajectory for national emissions from aviation.

Construction

- 8.3.13. Carbon losses through land use changes were estimated to change by less than 1% and were therefore not considered further in the GHG assessment. Construction emissions reflect the commitments set out in the CAP which would deliver a 17% reduction in emissions from typical construction practices. Aggregated estimated emissions from construction between 2024 and 2038 would be 1.55MtCO₂e while planned construction up to 2026 (representing the future baseline) would be 0.045MtCO₂e. Contextualisation of construction emissions against UK carbon budgets is presented in ES Table 16.9.4 [REP4-005]. This shows that for all periods construction emissions are higher than those in the future baseline but do not exceed 0.1% of total emissions in any period. Reflecting the commitments to mitigate emissions, the Applicant concluded that construction impacts would result in a minor adverse not significant effect [REP4-005].

Airport Buildings and Ground Operations

- 8.3.14. ES Table 16.9.6 [REP4-005] shows that ABAGO emissions increase from the baseline position under the with-Project scenario. From baseline year GHG emissions of 0.065MtCO₂e emissions would be 0.005MtCO₂e in 2029 and 0.001MtCO₂e in each other assessment year. Comparison of ABAGO emissions to the carbon budget show that they are very small for all periods, not exceeding 0.01% of the total emissions for any budget period. Comparisons of net emissions changes arising from the Proposed Development are even smaller. ES Diagram 16.9.1 shows that under the CAP, emissions increase at a more rapid rate than the net zero trajectory. The trajectory presented is for the full with-Project GHG emissions rather than only the net gains from the Proposed Development. On this basis the Applicant concluded that ABAGO would result in a minor adverse not significant effect.

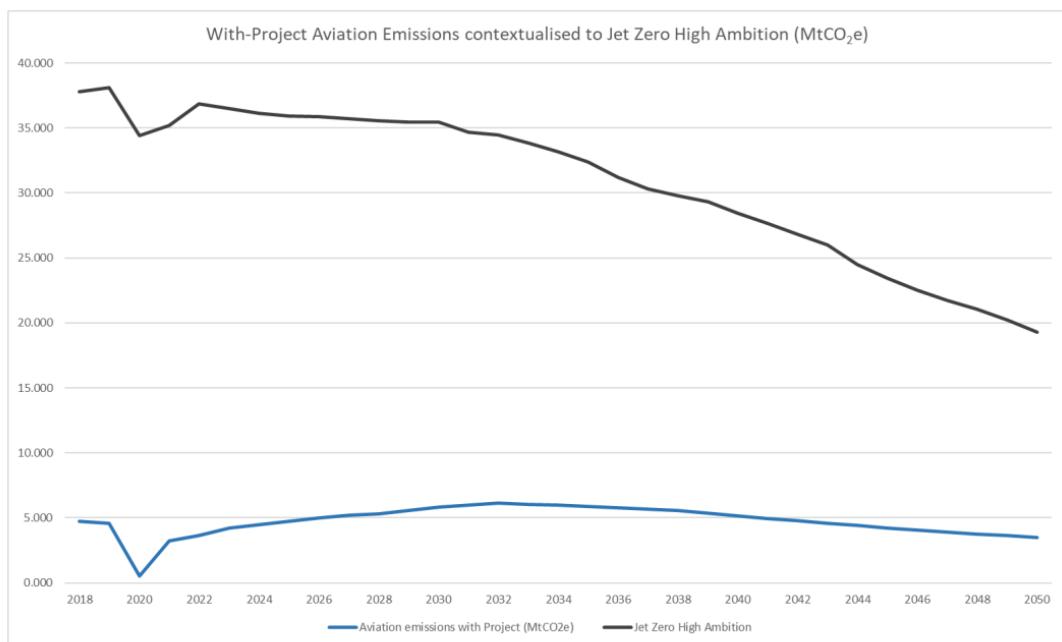
Surface Access

- 8.3.15. The ES [REP4-005] stated that residual surface access emissions would be greater for the Proposed Development than in its absence. From baseline year GHG emissions of 0.368MtCO₂e emissions would be 0.273MtCO₂e in the opening year falling back to 0.016MtCO₂e in the net zero year. Comparison of surface access emissions to the carbon budgets indicate that they do not exceed 0.1% of the total emissions for any budget period. Estimation of the rates at which transport will decarbonise from 2018 to 2050 are based on projections within the TDP. Surface access emissions increase from the baseline position, but broadly align with a decarbonising trajectory out to 2050 from the CCC Balanced Pathway for surface transport. Additionally, the trajectory presented is for the full with-Project GHG emissions rather than only the net gains from the Proposed Development. On this basis the Applicant concluded that surface access would result in a minor adverse not significant effect.

Aviation Emissions

- 8.3.16. Baseline year (2018) GHG emissions would be 4.756MtCO₂e rising to 5.888MtCO₂e in the opening year (2029) before declining to 3.476MtCO₂e in 2050 [REP4-005]. Modelling is based on forecast flight destinations and aircraft types for the with-Project scenario, changes in aircraft fleet to 2038, average annual engine efficiency improvements beyond 2038, Sustainable Aviation Fuels (SAF) uptake and forecast uptake of zero emission aircraft out to 2050 in line with the Jet Zero High-Ambition scenario.
- 8.3.17. The ES [REP4-005] concluded that the overall contribution of Gatwick aviation emissions in the with-Project scenario for the Sixth Carbon Budget period (3.038%) reflected the scale of Gatwick and was based on the entire airport. The net increase between with-Project and baseline aviation emissions during the Sixth Carbon Budget period would be 5,555MtCO₂e. Diagram 16.9.3 (reproduced below as Figure 8.2) compares residual emissions on a with-Project basis (comprising all airport aviation) including Jet Zero assumptions, with the Jet Zero High-Ambition scenario trajectory. This shows emissions from Gatwick flights increase out to 2032 under the with-Project scenario before emissions begin to decrease on a downward trajectory to 2050. In light of the contextualisation of emissions from Gatwick compared to UK carbon budgets, the Applicant concluded that the assessment of aviation would result in a minor adverse not significant effect.

Figure 8.221: Comparison of Project Aviation Emissions with Jet Zero Residual Emissions Trajectory



- 8.3.18. Under the SFT, aviation emissions peak by 2032, at a level approximately 3.6% higher than under the core-case scenario (ES Table 16.9.11 [REP4-005]). This is prior to the Sixth Carbon Budget period from 2037 leading the Applicant to see the impact when contextualised as very small. Under the SFT the contribution of aviation from the airport to the Sixth Carbon Budget would be 3.132%.
- 8.3.19. The difference in net aviation emissions arising from the with-Project scenario is an 0.584% increase in the Sixth Carbon Budget period under the SFT, compared to an 0.576% increase under the main scenario.

- 8.3.20. Given the minor scale of change arising from the SFT the Applicant considered that future emissions from aviation would align with the UK Government trajectory as presented in the JZS. On this basis the Applicant concluded that the SFT scenario would result in a minor adverse not significant effect.

Aggregating Appraisal of GHG Emissions

- 8.3.21. In accordance with ANPS paragraph 5.77 the ES includes a GHG ‘worst-case’ assessment. The Applicant interpreted worst-case as both the year of highest aggregated emissions, and the year in which emissions differ to the greatest extent from the baseline. The worst-case emissions are shown in ES Table 16.9.12 [REP4-005].
- 8.3.22. ES Table 16.9.13 [REP4-005] compares the aggregate impacts against the carbon budgets for the relevant periods which shows that in the Sixth Carbon Budget the contribution of the total future airport emissions to the carbon budget is 3.136%. This contribution reflects the increased scope of the budget to include international aviation. Of the total emissions value of 30.265MtCO₂e in the Sixth Carbon Budget period, approximately 95% is attributable to aviation impacts (ES Chapter 16 paragraph 16.9.93 [REP4-005]).
- 8.3.23. The Applicant viewed the with-Project scenario as very small for all periods except for the Sixth Carbon Budget, where it assumes the application of policy to deliver net zero aviation by 2050, and support for the decarbonisation of the aviation sector to achieve this.

CUMULATIVE EFFECTS

- 8.3.24. The ES stated that an assessment to examine how the impacts arising from the Proposed Development might cumulatively impact upon individual receptors is not appropriate for the assessment of GHG emissions. Impacts arising from GHG emissions have the same impact whether they are located near to Gatwick or in another region/ country. The impacts on a given location arise from the aggregated GHG levels in the atmosphere, not from the magnitude of GHG emissions in the local area.
- 8.3.25. The inappropriateness of undertaking a cumulative appraisal is reflected in the IEMA Guidance. The comparison of each emissions category to the UK carbon budgets, and to a sector-based net zero trajectory, provides the cumulative assessment. Additionally, the overall comparison of emissions from all aggregated sources to the carbon budgets provides a cumulative appraisal.

THE APPLICANT’S CONCLUSION

- 8.3.26. The GHG assessment assessed the emissions arising from the Proposed Development and contextualised these both individually within emissions categories and in aggregate compared to the UK carbon budgets. ES Table 16.12.1 [REP4-005] summarises the residual effects, while Table 16.12.2 shows the assessment of significance of each emissions category. The Applicant concluded that the overall impacts arising from the Proposed Development are not so significant that the Proposed Development would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. On this basis the overall assessment concludes that the Proposed Development has a minor adverse not significant effect.

8.4. ISSUES CONSIDERED DURING THE EXAMINATION

INTRODUCTION

- 8.4.1. Many of the RRs on climate change/ GHG issues made general comments about the effect the Proposed Development would have at a time of climate emergency. The Proposed Development was seen as leading to an increase in carbon emissions/ CO₂ with additional flights being particularly harmful. Many Interested Parties (IPs) argued that air travel should be reduced, not increased. Other IPs suggested that any new proposals should be contingent upon zero emission flights. Examples of RRs opposed to the Proposed Development because of GHG emission concerns included but are not limited to Ms Bramley [RR-3677], Ms Clarke [RR-1195], Mr Humphreys [RR-4193], Councillor Essex [RR-0896] and Mr Lloyd [RR-2126].
- 8.4.2. A small number of RRs related to climate change/ GHGs indicated support for the Proposed Development suggesting that it would align with the broader ambitions of the UK aviation sector to achieve net zero aircraft emissions.
- 8.4.3. The vast majority of local authorities and Parish Councils which submitted RRs made submissions relating to climate change and GHG emissions. Submissions on GHG emissions by groups with local connections to the airport included those made by Communities Against Gatwick Noise Emissions (CAGNE) [RR-0556], CPRE Sussex [RR-0927], Gatwick Airport Consultative Committee (GATCOM) [RR-1494], Gatwick Area Conservation Campaign (GACC) [RR-1495], Gatwick Obviously Not (GON) [RR-1502], Plane Wrong [RR-3661] and Surrey Climate Commission [RR-4396].
- 8.4.4. Other groups and organisations making substantial submissions on the issue of GHGs included the Aviation Environment Federation (AEF) [RR-0407], Bristol Airport Action Network [RR-0527], Flight Free UK [RR-1419], the New Economics Foundation (NEF) [RR-3251], No Airport Expansion [RR-3348] and Stay Grounded UK Chapter [RR-4247].
- 8.4.5. At Open Floor Hearing (OFH) 1 [EV4-001 to EV4-004], OFH2 [EV5-001] and OFH3 [EV15-001 to EV15-003] many speakers addressed the issue of climate change and GHGs and spoke passionately and with great authority and experience in opposition to the Proposed Development, commenting on the damage which GHG emissions were doing to the planet.
- 8.4.6. All Local Impact Reports (LIRs) addressed GHG emissions. The Joint West Sussex Local Authorities' (JWSLAs) LIR [REP1-068], Joint Surrey Councils' (JSCs) LIR [REP1-097] and the East Sussex County Council (ESCC) LIR [REP1-070] all identified the impacts associated with GHG emissions and the required mitigation. The Kent County Council (KCC) LIR [REP1-079] and the Sevenoaks District Council's LIR [REP1-095] highlighted the challenge of compliance with national targets and the cost to society of GHG emissions.
- 8.4.7. In addition to the general points raised by IPs at OFHs, we asked written questions about GHG emissions through first written questions (ExQ1) [PD-012], second written questions (ExQ2) [PD-021] and procedural decisions [PD-027]. Issue Specific Hearing (ISH) 6 [EV11-001] was specifically focused on GHG matters. The following issues remained in dispute at the end of the Examination.

THE POLICY CONTEXT

- 8.4.8. In respect of the CCC's call for a capacity management framework in its Annual Report 2023, an issue raised by many IPs, the Government subsequently determined that demand management is not necessary. The Applicant's response [REP3-086] to ExQ1.CC.1.1 also referenced the Government's response to Environmental Audit Committee in March 2024 and "*Supporting the transition to Jet Zero: Creating the UK SAF Mandate*" (April 2024) in highlighting the role of new fuels and technology to address net zero targets.
- 8.4.9. Noting that the determination of the DCO application was not the appropriate forum to challenge the Government's approach, the NNNPS 2024 states that the SoS for Energy Security and Net Zero regularly assesses whether the UK has sufficient policies and proposals overall to meet the UK carbon budgets, with a view to meeting the net zero target: "*It would not be feasible or sensible for such an assessment to be done at the time of taking individual development decisions, and there is no legal requirement to do so*".
- 8.4.10. While we asked IPs at ISH6 [EV11-001] about the extent, breadth and relevance of policy documents relating to GHGs, paragraph 3.61 of the JZS confirms that the Government's existing planning policy frameworks, along with the JZS and Flightpath for the Future have full effect and are material considerations in the statutory planning process for proposed airport development.
- 8.4.11. It can also be expected that IPs concerns about the uncertainty surrounding the means to achieve the objectives in the JZS can be addressed through proactive monitoring and intervention commitments in the JZS and Jet Zero Strategy: One Year On (July 2023) with multiple solutions provided to achieve objectives. Moreover, while the modelling on which the JZS is based was subject to detailed interrogation from IPs the policy itself is robust. Consequently, there is no reason why the weight given to the JZS trajectory should be reduced.
- 8.4.12. The JZS must also be seen in the context of the CCA2008, and the need to meet national GHG emission reduction targets. Notwithstanding the uncertainties inherent in the JZS, MBU and the delivery of the Carbon Budget Delivery Plan (CBDP), as the control regime is operated by the Government it is reasonable to conclude that the means for achieving its net zero obligations under the CCA2008 would be met.
- 8.4.13. Many of the issues raised by IPs during the Examination which questioned how GHG emissions generated by the Proposed Development should be addressed in policy terms were in fact questioning Government policy itself. These are matters which extend beyond the Applicant's DCO application and on which it is not necessary or appropriate for the ExA to reach a conclusion.

NON-CO₂ EMISSIONS

- 8.4.14. As set out in Table 14.6.1 of the Applicant's RR Report [REP1-048] various IPs noted the lack of consideration of non-CO₂ emissions in the GHG assessment. The Applicant's position was that the approach to non-CO₂ emissions reflected the guidance in the JZS and as discussed in section 16.4 of ES Chapter 16 [REP4-005].
- 8.4.15. ES Chapter 16 [REP4-005] notes that while the likelihood of non-CO₂ emissions contributing to changes in climate is acknowledged, given that there is no well-established methodology for quantifying non-CO₂ emissions impacts, and uncertainty on how to identify the magnitude of impact, the assessment does not attempt to quantify them.

- 8.4.16. NEF [REP1-241] cited research which suggested that non-CO₂ GHGs made up the majority of the aviation sector's climate impact. Consequently, NEF was critical of the assessment and noted that no mitigation measures were proposed for the non-CO₂ impacts. Similarly, the JZS notes that the best estimate is that *"roughly two thirds of aviation's historical climate impacts are due to non-CO₂ and that whilst non-CO₂ emissions can have both warming and cooling effects, the net warming effect is likely to be around three times that of CO₂"*.
- 8.4.17. NEF noted that ES Chapter 16 [REP4-005] acknowledges that non-CO₂ climate impacts from aviation are recognised in corporate reporting guidance in the UK. NEF refers to the Department for Energy Security and Net Zero (DESNZ) publication *"Government Greenhouse Gas Conversion Factors for Company Reporting"* which states that *"consideration of the non-CO₂ climate change effects of aviation can be important in some cases, and there is currently no better way of taking these effects into account than applying an aggregate multiplier. A multiplier of 1.7 is recommended as a central estimate, based on the best available scientific evidence"*.
- 8.4.18. NEF also noted [REP1-241] that the Department for Transport (DfT) aviation unit suggest that this multiplier can also be applied as a sensitivity test in a scheme's core socioeconomic assessment. Consequently, NEF recommended that the Applicant should present the cost of non-CO₂ emissions using the DESNZ recommended multiplier.
- 8.4.19. GON [RR-1502], AEF [REP1-114] and GACC [REP7-132 and REP9-247] shared NEF's view that the Applicant should have modelled the non-CO₂ impacts of the Proposed Development using the multiplier for company reporting. CPRE Sussex [REP9-224] noted that it could push increased emissions into the range where they must be taken into account and that failing to use the multiplier weakened the Applicant's case. Bristol Airport Action Network [RR-0527] argued that the former Department of Business, Energy and Industrial Strategy (BEIS) used a multiplier of 1.9 in their decisions but there was a case for the multiplier to be closer to 3.
- 8.4.20. CAGNE [REP9-223] argued that the judgment of the High Court in Bristol Airport Action Network v SSLUHC [2023] EWHC 171 (Admin) did not conclude that non-CO₂ emissions should be ignored by decision-makers. Rather, the Court held that because only the BEIS 1.9 multiplier had been relied upon and given other technical evidence in non-CO₂ emissions before the Inquiry, it was rational in those circumstances for the Panel to conclude that it was not appropriate to apply the multiplier. CAGNE argued that the multiplier proposed by AEF, can lawfully and rationally be used to provide an indication of the scale of non-CO₂ emissions that would be caused by the Proposed Development. The lack of a settled methodology does not prevent the use of a valid methodology to provide helpful information.
- 8.4.21. NEF [REP1-241] applied the multiplier of 1.7 to the carbon emissions data provided in ES Appendix 16.9.4 [APP-194], only to departing flights. This highlighted that the total CO₂ equivalent emissions would rise from approximately 18.5m tonnes to 31.5m tonnes over the period to 2050.
- 8.4.22. The Applicant [REP4-036] noted the uncertainty over the magnitude of non-CO₂ impacts and that a multiplier is not a straightforward CO₂ equivalent metric which does not reflect accurately the different relative contributions of emissions to climate change over time. Consequently, the use of a 1.7 multiplier had to be seen in the context of significant and acknowledged uncertainties in this area.

- 8.4.23. Furthermore, the Applicant [REP9-112] argued that a modified emissions estimate could not be contextualised as directed by the IEMA Guidance as there is no recognised benchmark against which to compare the impact of non-CO₂ emissions. Additionally, the uncertainties about their assessment mean that modelling is not part of the information that is reasonably required in the ES. As knowledge develops the Applicant has committed within the CAP [APP-091] to monitor and respond to emerging policy relating to non-CO₂ emissions as this comes forward.
- 8.4.24. Turning to the Bristol Airport case the Applicant [REP9-112] also referenced that the Panel had acknowledged that non-CO₂ effects had the potential to bring about climate change but recognised the uncertainty as to their effect and longevity. As such they concluded that it would be unreasonable to weigh this matter in the balance against the proposal. The Applicant quoted the High Court judgment which stated that in respect of the BEIS multiplier of 1.9 *“there is very far from being any scientific consensus that it is a relevant tool in determining non-CO₂ emissions from aviation other than in company reporting”*. The judgment also questioned how the multiplier could assist in considering whether the airport’s proposals would materially affect the ability of the UK to meet its carbon budgets and net zero target.
- 8.4.25. NEF [REP1-241] also indicated that the benefit-cost assessment had not included non-carbon GHG emissions which delivered most of aviation’s negative impacts on the climate and would significantly increase the scheme’s costs. At D10 NEF [REP10-049] identified that the cost of non-CO₂ emissions would increase the environmental cost of the scheme from £5.1 billion (bn) to £9bn. This assessment was based on adjustments which took account of DfT Transport Analysis Guidance (TAG) and DESNZ guidance on GHG emissions company reporting. In NEF’s view the failure to make such an adjustment significantly underestimates the scheme’s impact. As this evidence was submitted at the final deadline the Applicant did not have an opportunity to respond to it.
- 8.4.26. The Applicant’s response [REP3-076] to NEF referenced the Needs Case Appendix 1 – National Economic Impact Assessment [APP-251] which addresses the rationale behind the exclusion of non-CO₂ effects from environmental costs modelled. This recognises that *“Due to significant uncertainty around the magnitude of these impacts, the costs arising from non-CO₂ pollutants are not quantified in this assessment”*. The Applicant noted that this approach followed the latest DfT guidance which suggests that a qualitative approach was appropriate.

ExA’s Conclusion on Non-CO₂ Emissions

- 8.4.27. The non-CO₂ impacts from aviation are recognised and referenced in the Sixth Carbon Budget and the JZS as well as the Applicant’s own ES. The likelihood of non-CO₂ emissions contributing to changes in climate is also acknowledged but there is no agreed methodology for quantifying impacts or the magnitude of impact. There is also no agreement between parties about whether any multiplier appropriately addresses the magnitude of impact let alone what multiplier should be applied. Difficulties also occur in contextualising impact as directed by the IEMA Guidance.
- 8.4.28. In spite of these challenges, we are not convinced that the issue should be left in the ‘too difficult’ category and not included in the overall assessment given its potential scale. While acknowledging that the JZS and the CAP recognise the possibility of further research and action, this does not assist in determining the impact of non-CO₂ emissions on climate change in the extant case. When taking

account of the costs of non-CO₂ emissions presented by NEF, we also have concerns that the full impact of non-CO₂ emissions has not been addressed.

- 8.4.29. We agree with CAGNE's comment that the lack of a settled methodology does not prevent the use of a valid methodology, but any methodology must produce plausible outcomes and too many uncertainties create problems for quantifying results. To consider the effect of non-CO₂ emissions caused by the Proposed Development a qualitative judgment would be more appropriate and in line with DfT advice. Consequently, we consider that these emissions would mean that the Proposed Development would add to the magnitude of impacts and likely have a net warming effect.

THE FINCH CASE AND DOWNSTREAM EFFECTS

Context

- 8.4.30. The Supreme Court judgment in the case of R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024] UKSC 20 (Finch) was handed down on 20 June 2024. Through ExQ2.CC.2.1 [PD-021] we invited all parties to comment on the relevance or otherwise of the judgment to the Applicant's DCO application.
- 8.4.31. In responding to ExQ2.CC.2.1, the Applicant, [REP7-079], Legal Partnership Authorities (LePAs) [REP7-110] and CAGNE [REP7-129] all provided their own summaries of the key issues from the Supreme Court ruling.
- 8.4.32. The Applicant's approach to the implication of Finch [REP9-112] took the view that representations on this matter covered three areas: the need to assess carbon emissions from inbound flights; the relationship between indirect economic effects and the assessment of carbon effects; and the need to include well-to-tank (WTT) emissions, related to the creation of aircraft fuel, within the carbon assessment. This section covers the first two of these issues with the issue of WTT emissions primarily covered in the following section.

Emissions from Inbound Flights

- 8.4.33. The Applicant's position at the start of the Examination was that the ES [REP4-005] had appropriately assessed the emissions from outbound aircraft (both domestic and international) but not inbound flights. In their Written Representations various IPs including GACC [REP1-173] had argued that the Applicant's assessment should include inbound international flights and that it was disingenuous to treat these as zero. At ISH6 [EV11-001] we also asked the Applicant whether additional in-bound flights occurring as a result of the Proposed Development should be included as they would generate increases in emissions elsewhere in the world that would not occur in the absence of the Proposed Development.
- 8.4.34. The Applicant [REP3-072 and REP4-032] indicated that the standard international approach was for aviation emissions to be accounted for at the source location. Inbound flights had been excluded to provide contextualisation against the UK GHG inventory and against the Jet Zero trajectory, and to be consistent with the methodology used to calculate and set the carbon budgets. The Applicant noted that whilst it could theoretically calculate a number to account for the GHG emissions from arrivals, that number could not practically be contextualised.
- 8.4.35. The Finch judgment was handed down after D5. Commenting on its relevance to the Applicant's DCO application, the LePAs [REP7-110] took the view that climb,

cruise and descent (CCD) emissions for inbound flights ought to be assessed as part of the EIA process. Given that CCD emissions from outbound flights were deemed to be effects of the project by the Applicant, the necessary relationship of legal causation between the CCD emissions from inbound flights also exists.

- 8.4.36. The LePAs also considered [REP7-110] that while aviation emissions are allocated to the country of departure for the purposes of carbon budgeting this does not alter the requirement for all indirect effects of the Proposed Development on climate to be assessed. Post-Finch emissions for inbound flights should be assessed as these are indirect effects of the Proposed Development on climate and their quantification could still be contextualised.
- 8.4.37. The Applicant confirmed ([REP7-079] and Appendix D: Response to Submissions on CC.2.1 [REP8-119]) that in the light of the Finch judgment it acknowledged that the EIA Directive does not impose any geographical limitation on the scope of the environmental effects of a project although a reason not to assess carbon emissions could be that they are judged not to be significant.
- 8.4.38. In respect of inbound emissions, the Applicant confirmed that it had provided an assessment of total inbound emissions [REP7-079] based on a simple doubling of the emissions associated with outbound flights. At 2050 this shows that the aviation emissions would double from 0.512MtCO₂e to 1.022MtCO₂e (excluding WTT emissions). When WTT emissions are included for these flights (total WTT) this figure rises to 1.234MtCO₂e. However, the Applicant [REP4-036 and REP7-079] explained that considering these doubled emissions against the Jet Zero trajectory would not allow for an appropriate contextualisation given that inbound international emissions are not within the scope of the JZS and trajectory. The suggestion that total aviation emissions should be contextualised against UK carbon budgets was also inconsistent with the IEMA Guidance. Nevertheless, the Applicant contextualised total aviation emissions against an International Civil Aviation Organisation (ICAO) sector-based scenario that aligns with the JZS High-Ambition scenario.
- 8.4.39. Carbon emissions from domestic inbound flights, are extremely small and would reduce substantially over time as a result of the JZS but they fall within the scope of UK carbon budgets [REP8-119]. Nevertheless, the Applicant produced updated aggregate emissions [REP9-120].
- 8.4.40. At D8 the LePAs [REP8-161] commented that the Applicant needed to update the ES to present and contextualise the figures for inbound flights in a comparable way to how outbound aviation emissions were originally assessed. GACC [REP8-152 and REP9-247] and the LePAs [REP8-161] argued that in-bound flights should be within the scope of the ES and quantified for all years, as has been provided for departing flights with and without the Jet Zero assumptions applied. The LePAs also questioned why the Applicant had contextualised figures for inbound flight emissions against the total anticipated figure for 2050 global international aviation emissions when in respect of the assessment of outbound aviation emissions the IEMA Guidance had been used.
- 8.4.41. CAGNE [REP8-143] noted that the Applicant argued that contextualisation of emissions from international flights cannot be undertaken against UK carbon budgets. However, this failed to recognise that assumptions regarding fleet improvement, SAF uptake and zero emission aircraft were not applied to carbon budgets and in particular to the Sixth Carbon Budget yet the Applicant applied the assumptions itself and still contextualised against the Sixth Carbon Budget.

- 8.4.42. CAGNE [REP8-143] and GACC [REP8-152 and REP9-247] highlighted concerns about how reporting within the UK GHG inventories against carbon budgets is different from what is required to be assessed as part of the ES if the implications of causation from Finch are applied to the DCO application. Also, the dismissal of inbound domestic emissions as small while excluding inbound international flights is illogical given that the Finch case rules that location of emissions should in no way limit what is considered in the ES.
- 8.4.43. The Applicant rejected [REP8-119] the suggestion from KCC [REP7-106] that the assessment covers only the landing stage of an outward flight but not the consequential GHGs incurred at destination airports, particularly where airports expand capacity to accommodate additional air traffic from Gatwick. Difficulties in establishing reliable evidence to contribute to a properly reasoned conclusion on the GHG emissions arising were also identified by the Applicant.
- 8.4.44. The LePAs [REP7-110] recognised that there may be potential issues about the substitution of emissions if modelling indicates that inbound flights would likely have flown anyway without the Proposed Development, just to a different airport. In this context they referenced the case of Friends of the Earth and South Lakeland Action on Climate Change v the SoS for Levelling Up, Housing and Communities and others [2024] EWHC 2349 (Admin) rightly assuming that judgment was unlikely to be handed down before the Examination concluded. In the judgment issued on 13 September 2024, the High Court held that the decision to grant planning permissions without first assessing the effect of downstream combustion emissions from the burning of coal was an error in law. The judgment also found that the SoS's approach to the issue of substitution was inconsistent and irrational in accepting that the Whitehaven coal mine would not cause any increase in global GHG emissions because the coal mined would replace or substitute coal that would otherwise have been extracted elsewhere.

Indirect Economic Effects and the Assessment of Carbon Effects

- 8.4.45. The Applicant [REP5-072 and REP7-079] regarded concerns from GACC [REP6-124] and others that the EIA should identify and assess economic effects which generate carbon effects that can be identified and assessed as misplaced and far removed from the situation in Finch. It acknowledged there would be direct economic effects that produce carbon effects which can be assessed. However, while indirect and induced economic effects, may involve a range of activities which can be assessed financially, in relation to potential carbon emissions they were beyond any realistic assessment.
- 8.4.46. The Applicant's view [REP7-079] was that even if further economic activity as measured in financial terms in the local economic assessment could generate further carbon emissions, the nature of the indirect, induced and catalytic economic effects was considered such that there was insufficient evidence that a possible environmental effect is likely. The national economic assessment was not designed to consider economic benefits in a way which translated into carbon emissions. The Applicant considered that as set out in its response to ExQ2.CC.2.1 [REP7-079] and the Greenhouse Gases Technical Note [REP9-120] it did not envisage that any further assessment of emissions resulting from economic activity would lead to a conclusion of any significant effect.
- 8.4.47. In the light of the Finch judgment, the Applicant concluded [REP9-112] that the scope for indirect effects to arise "*which are not a direct result of the Project, often produced away from the Project site or as a result of a complex pathway*" as set out

in ES Chapter 6 [APP-031] was consistent with the approach in Finch. The Applicant did not consider that Finch required the assessment of any effects which had not already been addressed in the ES or any other Examination information.

ExA's Conclusion on the Finch Case and Downstream Effects

- 8.4.48. In response to the Finch judgment the Applicant accepted that the Proposed Development may give rise to significant downstream GHG emissions in respect of inbound flights and provided evidence for consideration alongside its original ES. The evidence in respect of inbound flights was sufficient to base a reasoned conclusion as to whether a potential effect was likely. The revised assessment disregarded geographic boundaries by including international emissions, thereby ignoring the potential for double counting of emissions. The Applicant's revised assessment, on which IPs had an opportunity to comment, also took account of WTT emissions which is also appropriate in terms of the downstream effects identified through the Finch decision. In doing so the assessment recognised a clear causal link between the Proposed Development and GHG emissions. The effects themselves and the approach to contextualisation is considered below.
- 8.4.49. In respect of substitution, it would be unreasonable to conclude that there was not at least some element of aviation emissions associated with growth at Gatwick which is generated by the Proposed Development and not from the transfer of flights from other airports.
- 8.4.50. In respect of the indirect economic effects, we consider that while there may be effects which can be assessed financially, potential carbon emissions would not be capable of meaningful assessment and the possibility of an environmental effect being demonstrated is not likely. Consequently, we agree with the Applicant that no further assessment, beyond that which had already been carried out, is required.

APPROACH TO WHOLE LIFE CARBON AND WELL-TO-TANK EMISSIONS

- 8.4.51. Various RRs and LIRs commented that the carbon assessment should adopt a whole life carbon approach. Following discussion at ISH6 [EV11-001] the Applicant explained [REP4-036] how a whole life carbon assessment had been applied in the submission through *Supporting Greenhouse Gas Technical Notes: Appendix A – Whole Life Carbon Considerations* [REP4-020]. It confirmed that the assessment took account of the extent of available information, and that the assessment was aligned with the IEMA Guidance in informing the assessment of significance which remained unchanged.
- 8.4.52. Responding to the CPRE Sussex [REP9-224] comment that different types of fuels were treated differently in terms of life cycle analyses, the Applicant stated [REP9-112] that the ES had applied the whole life carbon accounting guidance issued by the Royal Institution of Chartered Surveyors (RICS) to inform the quantification of activity and the selection of carbon factors.
- 8.4.53. The Applicant also committed through the CAP [APP-091] to become certified under PAS2080 which would require a full life carbon assessment of each part of the Proposed Development. The requirement of the PAS2080 process would require a substantially more detailed and comprehensive approach to the consideration of whole life carbon, thereby providing an effective mechanism for its mitigation throughout the design and delivery of the Proposed Development [REP3-107 and REP4-020].

- 8.4.54. In their RRs, ESCC [RR-1252], Mid Sussex District Council [RR-3043], RBBC [RR-3734] and West Sussex County Council [RR-4773] commented that WTT emissions had not been calculated which was not compliant with the GHG Protocol Corporate Accounting Standard and the UK Government's carbon accounting methodology (BEIS 2022). Using WTT emissions methodology would raise GHG emissions associated with aviation by approximately 20%. The carbon accounting methodology recommends that "*WTT fuels conversion factors should be used to account for the upstream Scope 3 emissions associated with extraction, refining and transportation of the raw fuel sources to an organisation's site (or asset), prior to combustion*".
- 8.4.55. The Applicant [REP1-048 and REP4-020] did not dispute that WTT emissions arise in the supply chain for fuels and that methodologies for estimating these are well established. The exclusion of WTT emissions from the quantification of carbon emissions in the ES [REP4-020] was to avoid inconsistency in the reporting of GHG emissions across the four emission topics. Carbon assessment methodologies are not fully consistent with RICS guidance indicating that WTT emissions could be included but IEMA Guidance makes no reference to WTT. Moreover, the JZS does not include WTT within the main emissions calculation methodology.
- 8.4.56. In response to ExQ2.CC2.1 [PD-021] the Applicant [REP7-079] confirmed that it had quantified WTT emissions for all four GHG sources as explained in *Supporting Greenhouse Gas Technical Notes – Appendix B Well-to-Tank Emissions* [REP4-020]. As WTT emissions sit outside the contextualisation against UK carbon budgets for ABAGO, surface access and aviation they were not included within the trajectories used to contextualise these sources. However, a review was undertaken to include WTT emissions from inbound flights on the same basis as the Appendix B calculations as well as allowing for WTT emissions associated with production outside the UK.
- 8.4.57. When WTT emissions are added to those for construction, ABAGO, surface access and aviation for the Project between 2018 and 2050 an increase from 20.063MtCO₂e to 24.041MtCO₂e would occur, equating to an increase of 19.83% [REP4-020]. With 64% of WTT emissions associated with aviation fuel produced outside the UK in 2022 and therefore outside of the scope of UK carbon budgets, the increase in the portion of WTT emissions from aviation fuel produced within the UK was 7.55%. When contextualised against UK carbon budgets the effect of including domestic WTT emissions increased the contribution of the Project to the Sixth Carbon budget from 0.604% to 0.649%. This was considered by the Applicant to be not significant [REP4-020]. Additionally, with the inclusion of inbound flight emissions incorporating WTT emissions there would be no material difference to the contextualisation against global aviation emissions. The Applicant therefore concluded that aviation emissions with WTT emissions would not be significant.

ExA's Conclusion on Approach to Whole Life Carbon and Well-to-Tank Emissions

- 8.4.58. Although neither the ANPS nor the NNNPS 2015 refer to whole life carbon the NNNPS 2024 which is capable of being an important and relevant matters does address the issue. It confirms that national networks infrastructure projects should include a whole life carbon assessment at critical stages in the project lifecycle, referencing both TAG and PAS2080. Taking account of this recent advice from the DfT we conclude that having now clarified its position, the Applicant's approach to whole life carbon to date, and going forward, is both appropriate and proportionate.

- 8.4.59. In respect of WTT emissions we acknowledge that the Applicant's position has evolved through the Examination and that evidence has been provided which clarifies the effect of including WTT emissions for domestic aviation fuel while noting that it has not been applied to the much larger proportion of imported fuel. The effect of including WTT emissions on the overall assessment is addressed below.

MITIGATION AND AVIATION EMISSION CONTROLS

The Carbon Action Plan

- 8.4.60. Various concerns were raised about the effectiveness of the measures in the CAP including through the JSC' LIR [REP1-097], the JWSLA' LIR [REP1-068] and by GON [REP1-179]. CAGNE [REP8-143] was also of the opinion that the CAP lacked enforcement powers with no immediate consequences in terms of airport growth if targets were not met while resources for local authorities were inadequate. Through ExQ1 we asked numerous questions (ExQ1.CC.1.3, ExQ1.CC.1.4 and ExQ1.CC1.6 to ExQ1.CC.1.10 [PD-012]) about the CAP's scope and effectiveness.
- 8.4.61. The Applicant's responses [REP3-086 and REP9-112] confirmed that the CAP had been developed to commit to specific climate mitigation 'outcomes' for construction, ABAGO and aviation rather than any of the underlying potential measures that are referenced beneath each committed outcome. The measures are not prescriptive and provide flexibility to ensure the most effective are implemented. In respect of aviation the primary action to reduce emissions from aircraft would arise from Government strategy at a sectoral scale rather than directly through the influence of individual airport operators. The CAP would be secured through Requirement (R) 21 of the Applicant's final dDCO [REP10-004] which provides certainty as to the outcomes, regardless of how they are achieved.
- 8.4.62. At D6 the Applicant noted [REP6-093] that its commitments as part of the CAP were in line with Government policy, particularly its commitments in respect of Scope 1 and 2 ABAGO emissions to be net zero by 2030 and to achieve zero emissions by 2040.
- 8.4.63. At ISH6 [EV11-001] the Applicant explained that the CAP has a different conceptual basis to that of the SAC, in that the impacts of GHG emissions are global and are considered on a national basis. It is therefore reasonable that the local authorities have a lesser role in enforcement of the CAP as compared to the SAC.
- 8.4.64. At D9 the Applicant [REP9-112] addressed concerns about whether the CAP commitments were clear enough and enforceable, noting that the IEMA Guidance requires assessments to consider the certainty of mitigation proposals and whether they are realistic and achievable. The Applicant explained that the CAP requires the publication of annual monitoring reports. If CAP commitments are not being met or insufficient progress is being made towards compliance, the Applicant must prepare an action plan to detail the additional interventions it proposes with a timescale for their implementation. This would be submitted to Government and if considered to be inadequate there is no limitation on the scope or effect of the Government's potential response to ensure that the objectives of the JZS are addressed. A failure to comply with the outcomes committed in the CAP would represent an impediment to the Government's implementation of the JZS and other carbon reduction commitments. Consequently, the Applicant considered it was not necessary or appropriate to impose a more prescriptive process than that set out in the CAP.
- 8.4.65. R21 [REP5-005] stated that: *"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.”

- 8.4.66. Our suggested amendment to R21 (within Annex B to the Agenda for ISH9 [EV20-001]) where we proposed the addition of “*(following consultation with CBC [Crawley Borough Council])*” at the end was supported by various IPs including CAGNE [REP8-143]. Subsequently, the Applicant amended R21 on this basis [REP8-005].

Environmentally Managed Growth

- 8.4.67. The Joint Local Authorities (JLAs) proposed an Environmentally Managed Growth (EMG) Framework through various submissions including [REP4-050 and REP5-093] with details of a requirement provided at D6 [REP6-100]. One aspect of the Framework was in relation to GHG emissions. The JLAs’ case was based on the perceived inadequacies of controls proposed by the Applicant to ensure that the growth of the airport is managed in line with its impacts. It was based on the concept of Green Controlled Growth (GCG) as proposed through the London Luton Airport Expansion DCO application.
- 8.4.68. The JLAs proposed that the EMG Framework should manage the environmental effects of GHG emissions in relation to ABAGO and surface access transportation. The Applicant addressed the JLAs’ EMG Framework through their response to Action Point 8 from ISH8 [REP4-036], *Appendix B: Response to the JLAs’ Environmentally Managed Growth Framework Proposition* [REP5-074]; *Response to JLA’s EMG Framework Paper* [REP6-093] and *Appendix C Response to the JLAs’ EMG Framework Paper* [REP8-118]. The Applicant considered the EMG Framework in respect of control over GHG emissions at a local authority level to be unjustified and unnecessary. With Government responsibility to meet carbon reduction commitments, and policies in place for that purpose, the Applicant saw no need or justification for an additional regime.
- 8.4.69. The Applicant also noted that the JLAs had acknowledged [REP7-102] that aviation emissions would be controlled by Government policy (primarily the JZS) and like the GCG proposals, there was no intention to include them within the EMG Framework. This was a reflection that an external offsetting mechanism exists in the form of the UK Emission Trading Scheme (ETS) and given that compliance with it is a legal requirement for airlines and that the commitment in the JZS is to fully implement CORSIA the provision of such a mechanism through the Framework would not be necessary. The Applicant [REP9-112] also noted that without aviation emissions, approximately 96% of the airport’s GHG emissions would not be subject to the EMG Framework. Recognising that climate change is a global issue the Applicant argued that it would not be appropriate to overlap the reporting/ enforcement regime which Government has in place to meet carbon reduction targets with a system involving local authority regulation.

Aviation Emission Controls and Carbon Cap

- 8.4.70. The Applicant [REP9-112] rejected GACC’s concern [REP8-152] about the lack of Government controls over emissions at Gatwick if the airport exceeds the number of ATMs and GHG emissions it envisages would occur. It rejected the idea that emissions should be subject to the CAP.
- 8.4.71. AEF [REP3-158] noted that while aircraft emissions were beyond the airport’s direct control there was a parallel with aircraft noise which is also subject to planning conditions and limits on capacity. In response, the Applicant [REP4-032] noted the different approach to these topics in the ANPS where there is no expectation that an

applicant would commit to mitigation measures in relation to aircraft in flight (paras 5.78 – 5.81). In relation to noise the ANPS is clear that an applicant should put forward plans for a noise envelope as part of a range of mitigation measures (para 5.60).

- 8.4.72. AEF proposed [REP1-114 and REP3-158] limits for maximum annual CO₂ levels for all departing flights. It suggested that the CO₂ limits should follow a trajectory reflecting the Applicant's forecast levels of emissions. Through a request under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (R17d.10 [PD-027]) we asked all IPs for their comments on a new requirement proposed by CAGNE at D8 [REP8-143] to address carbon emissions through a carbon cap scheme, building upon AEF's proposals.
- 8.4.73. Responding to arguments (including CAGNE at [REP4-093]) in favour of a binding set of annual emission caps aligned with the Government's CO₂ trajectory for aviation the Applicant considered that such a requirement would fail normal planning tests as it would not be "*necessary to make the development acceptable in planning terms*". This was because the ES had concluded that the climate change impacts would not be significant, national aviation emissions would be managed in line with the Government's trajectory and replicating an approach through a DCO would not be appropriate.
- 8.4.74. CAGNE [REP10-039] countered the Applicant's position that there is no policy basis for a carbon cap requirement. Through the CAP and R21 of the dDCO [REP10-004] the Applicant had accepted as a matter of principle that there is a need to reduce carbon emissions and that this should be controlled through the DCO. CAGNE also noted [REP10-039] that the ANPS (para 5.70) in referring to the APF, identifies the Government's key aviation emissions objective being to ensure that the aviation sector makes a significant and cost-effective contribution to reducing global emissions. In CAGNE's view the carbon cap would help to achieve that goal.
- 8.4.75. CPRE Sussex [REP9-224] supported a restriction on GHG emissions if the High-Ambition scenario for emission reductions were not achieved. It suggested that if the Applicant wished to depend on the High-Ambition scenario inherent in the JZS to meet its climate change obligations it should be willing to accept the need to operate within the emissions reduction pathway indicated.
- 8.4.76. GACC [REP9-247] also questioned the Applicant's assertion [REP8-118] that "*aviation emissions will be controlled by government*" as the scale of expansion sits outside that envisaged by Government and it had not been explained how Government could control emissions if the ATM and GHG emissions envisaged were exceeded.
- 8.4.77. The Applicant's response [REP9-121] noted that CAGNE's proposed carbon cap requirement envisaged a scheme to be approved/ regulated by local authorities with maximum annual carbon emissions, annual monitoring reports and growth restrictions where monitoring indicates an exceedance of the specified limits. However, that was considered more onerous than the EMG Framework through including aviation emissions and the JLAs [REP9-151] acknowledged that these are matters for Government.

ExA's Conclusion on Mitigation and Aviation Emission Controls

- 8.4.78. Many IPs considered that the CAP lacked clear actions and had limited formal enforcement powers and little opportunity for local authority involvement. However,

given the uncertainties with the JZS which we have already identified, we accept that the approach of not having prescriptive measures and allowing flexibility is appropriate. This is particularly so with the CAP being secured through R21 of the recommended DCO and the SoS having a major role in overseeing its effectiveness.

- 8.4.79. The JLAs' EMG Framework proposed to control GHG emissions in respect of ABAGO and surface access but would largely duplicate the Applicant's approach which would be secured through the CAP and R21. In respect of aviation emissions, the JLAs accepted that these are matters for Government and none of the positions put forward by other IPs have provided a cogent reason why aviation emissions should be controlled at a local level. We accept that controls at a national level are appropriate as is the CAP.

CARBON TRADING AND OFFSETTING SCHEMES

- 8.4.80. Responding to representations which questioned whether CORSIA and the UK ETS should be relied upon as mechanisms to control aviation emissions including from Safe Landing [REP1-261], GACC [REP1-173] and AEF [REP1-114], the Applicant [REP9-112] noted that modelling of aviation carbon emissions does not discount emissions on the basis of trading or offsetting. The forecasts of likely passenger levels and ATMs is based on the market effect on pricing of aviation travel carbon impacts, as a mechanism to constrain demand. Emissions modelled in the ES use the same assumptions for CORSIA and the UK ETS as in the JZS assumptions.
- 8.4.81. The Applicant [REP9-112] noted that the UK ETS and CORSIA are widely recognised as appropriate measures to mitigate impacts. The ETS which covers UK domestic flights and departures to European Economic Area states and Gibraltar, would cap aviation while CORSIA would manage international aviation on a similar basis. CORSIA's operation would be reviewed post-2035 but the JZS commits the UK Government to work closely with other states to maintain and strengthen CORSIA. These regimes should be seen as sitting within the strategy to meet Jet Zero in the aviation sector which itself sits within the broader legal obligation to meet net zero by 2050. The JZS commits to "*creating successful carbon markets and investing in greenhouse gas removals to compensate for residual emissions in 2050*". The Government will still be required to comply with its statutory duties in relation to any roll forward, or replacement of the current CORSIA scheme.
- 8.4.82. The Applicant noted [REP3-072] that the GHG assessment considered emissions from the Project in the context of residual emissions modelled from the JZS which included the cost impacts upon demand arising from ETS and CORSIA rather than the carbon benefit attributed to the CORSIA scheme offsets themselves. On this basis the Applicant contextualised the resultant aviation emissions against the Jet Zero residual emissions trajectory.

ExA's Conclusion on Carbon Trading and Offsetting Schemes

- 8.4.83. While there is uncertainty about the future of CORSIA the Government has committed to its roll forward or replacement and has a legal obligation to do so. As separate pollution control regimes, the UK ETS and CORSIA can be assumed to operate effectively and therefore in accordance with the NPPF. It is not necessary or appropriate for this Report to do more than reflect that position and acknowledge that Government policy is to meet Jet Zero within the legal obligation to meet net zero by 2050. Carbon trading and offsetting schemes as a means of addressing aviation carbon emissions must be viewed in this context.

THE SIGNIFICANCE OF EMISSIONS

Assessment Criteria and Significance

- 8.4.84. The IEMA Guidance notes “...it is essential to provide context for the magnitude of GHG emissions reported in the EIA in a way that aids evaluation of these effects by the decision maker”. Table 1 of the IEMA Guidance presents a range of potential contextualisation sources with the Applicant noting that not all would be applicable to all parts of the Proposed Development.
- 8.4.85. Section 6.3 of the IEMA Guidance states that “a project that is compatible with the budgeted, science based 1.5°C trajectory in terms of rate of reduction...has a minor adverse effect that is not significant”. The Applicant also confirmed [REP9-112] that assessing the Proposed Development against carbon budgets necessarily means that it is assessed against the Paris Agreement treaty obligation to limit global temperature increases to 1.5°C, as this is the objective that the carbon budgets are based on.
- 8.4.86. The IEMA Guidance (section 6.3) also proposes that “An indicative threshold of 5% of the UK or devolved administration carbon budget in the applicable time period is proposed at which the magnitude of GHG emissions irrespective of any reductions is likely to be significant”. It continues “A project that meets this threshold can in itself materially affect achievement of the carbon budget”.
- 8.4.87. The Applicant considered [REP4-032 and REP9-112] that contextualisation could be carried out by examining the percentage contribution to the UK’s national carbon budgets as undertaken through Table 16.9.13 of ES Chapter 16 [REP4-005]. This compares total with-Project emissions to UK carbon budgets. The Applicant noted that comparing airport/ project emissions against national carbon budgets was an approach adopted in previous decisions at Stansted and Luton airports. Moreover, contextualising emissions against the JZS is consistent with the IEMA Guidance. The Applicant [REP9-112] rejected a suggestion by RBBC [REP5-110] that contextualisation should be against the CCC’s Net Zero Pathway on the basis that Government has set out its policy in the JZS and that this provides appropriate contextualisation.
- 8.4.88. CAGNE [REP4-093] noted the importance of interrogating the Applicant’s information about the scale of GHG emissions to make an informed judgment on their significance and materiality. It argued that in the light of paragraphs 5.82 and 5.18 of the ANPS it is necessary to evaluate the extent to which the Applicant has provided evidence to measure whether the increase in GHG emissions is so significant as to have a material effect on achieving the obligations in national carbon budgets and any other relevant trajectories and in-sector targets. CAGNE stated that the carbon assessment needed to take account both of the increase from the Proposed Development compared to the future baseline and the total emissions of the Proposed Development operating in the context of the existing airport.
- 8.4.89. Commenting on the criteria the LePAs [REP4-057] noted the 5% threshold of carbon budgets as capable of being significant and that simply considering the Government’s legal obligations is not sufficient. They also noted that the IEMA Guidance advised that contextualisation should consider “sector-based strategies and budgets” which relates to the JZS. The LePAs were unclear whether sufficient information had been provided to ensure that all emissions associated with the Proposed Development could be assessed.

- 8.4.90. National Highways [RR-3222] also questioned how the Applicant could conclude that the emissions would result in a minor adverse effect in terms of alignment with the NNNPS. In response the Applicant [REP10-017] referenced Table 16.2.1 of the ES [REP4-005] which summarises the relevance of the NNNPS and whether the Proposed Development would have a material impact on the Government's ability to meet its carbon reduction targets. This was presented in terms of alignment with the IEMA Guidance. The appraisal of overall significance is then presented in terms of the ANPS and NNNPS tests in the Planning Statement [APP-245].

Local Contextualisation

- 8.4.91. Various IPs suggested that emissions from the Proposed Development should be contextualised at a local level and that carbon emissions would not be consistent with local policies or declarations of climate emergencies. However, the Applicant noted [REP9-112] that no IP had demonstrated how any local budget could meaningfully be applied to the emissions of an airport designated for its strategic importance at a national level, or how the Proposed Development would conflict with such policy.
- 8.4.92. Table 1 of the IEMA Guidance identifies limitations with local budgets, noting that a geographical budget below a national budget prescribed by law is not meaningful given that carbon emissions are not geographically circumscribed. It is also unclear whether emerging local budgets would add up coherently to the UK budget. The Applicant noted that there is nothing in law which sets a local budget and national policy does not require an assessment of carbon budgets at a local level.
- 8.4.93. In respect of locally declared climate emergencies, the Applicant's view was that it had set itself a more demanding carbon target than those which various local authorities consider it necessary to impose on themselves or other development in their areas [REP4-036].

The Significance of Emissions

- 8.4.94. Responding to the suggestion from the Nutfield Conservation Society [REP7-146] that the Proposed Development would lead to an increase in Scope 3 GHG emissions at waste incinerators the Applicant noted that this represents an increase of around 0.25% in the total net additional GHG emissions arising from the Project in the Sixth Carbon Budget period. This would increase the contribution of the Project to the Sixth Carbon Budget from 0.604% to 0.605%. As such the conclusions of the assessment would be unaffected.
- 8.4.95. At ISH6 [EV11-001] we asked IPs whether, in the light of paragraph 5.82 of the ANPS, the increase in carbon emissions resulting from the Proposed Development would be so significant that it would have a material impact on the ability of the Government to meet its carbon reduction targets, including carbon budgets, thereby providing a reason to refuse development consent.
- 8.4.96. GACC [REP4-106 and REP9-248] stated that the application understated the likely increased carbon emissions and underplayed their significance. In their view the Proposed Development would have a material impact on the ability of the UK to meet its carbon reduction targets, and future carbon budgets. It set out its own upper and lower bounds on the likely trajectory for GHG emissions and estimated that Gatwick Airport would be responsible for between 4.4% and 5.9% of the UK carbon budget in 2038 and around 20-25% of all aviation emissions forecast in the CCC's Balanced Net Zero Pathway. It argued that significance should be assessed against the 1.5°C compliance trajectory as in the IEMA Guidance as well as against

the JZS's allocation of ATMs and GHG emissions to Gatwick Airport. KCC [REP9-146] also commented that by 2050 with the Proposed Development in place, Gatwick Airport would be responsible for 20% of the overall aviation carbon budget.

- 8.4.97. In its closing submission the Applicant rejected GACC's analysis (footnote 486 [REP9-112]) because in part the assessment had been based on: information published prior to the publication of the ES; through the inclusion of inbound flights and a multiplier to reflect non-CO₂ emissions; the whole airport emissions as the primary test; and an estimation of the total airport impacts against the CCC Balanced Pathway scenario which does not have any formal status. The Applicant noted that the approach to contextualisation is a matter of judgment, and it is appropriate in an aviation context to adopt the JZS given it represents a committed UK government position and up to date policy.
- 8.4.98. GACC [REP9-247] contended that the significance of the Proposed Development should be assessed against the size of the sector's carbon budget for the UK, not the global aviation industry. Consequently, the scale of emissions based on causation as now required by the EIA based on Finch would equate to around 14-19% of all 2038 aviation emissions forecast in the CCC's Balanced Net Zero Pathway, when they will become a legally binding part of the UK carbon budget.
- 8.4.99. CAGNE [REP8-143] commented that were the Applicant to contextualise against UK carbon budgets with updated figures it would show that revised emissions would amount to over 6% of the Sixth Carbon Budget. CAGNE also questioned the appropriateness of contextualising inbound aviation emissions against aviation emissions alone. Its final position [REP9-223] was that the Proposed Development would have a material effect on achieving the obligations both in national carbon budgets and in other relevant trajectories and in-sector targets.
- 8.4.100. The Applicant [REP4-036 and REP7-079] explained that contextualising total aviation emissions against an ICAO sector-based scenario that aligns with the JZS High-Ambition scenario shows that Proposed Development only emissions would account for 0.11% (no WTT) or 0.13% (with WTT) of projected global aviation emissions in 2050 which the Applicant regarded as "*plainly insignificant*".
- 8.4.101. Table 2 from the Greenhouse Gas Technical Notes [REP4-020] was not updated in the later version [REP9-120] because the original had provided a scope of emissions which aligned with UK carbon budgets. It was noted that by including all inbound international aviation the scope extends globally and no longer represents the scope of UK carbon budgets.
- 8.4.102. At D8 the LePAs [REP8-161] noted that the Applicant's global contextualisation with inbound aviation emissions accounting for 0.11% of all global aviation for a single project, would not in their view result in a characterisation as plainly insignificant. CAGNE [REP9-223] also argued that no matter which contextualisation is used, for a single project to amount for 0.11% or 0.13% of the global ICAO international aviation emissions trajectory is significant.
- 8.4.103. When aggregate emissions are considered, the ES concluded (Table 16.9.13 [REP4-005]) that the highest contribution of the Proposed Development would be 0.604% to the Sixth Carbon Budget. Where the contribution to the Sixth Carbon Budget for whole airport with the Proposed Development was considered (3.136%), the conclusion remained the same. These figures were amended during the Examination to 0.657% and 3.459% and are included in a revised Table 19.9.13 included in the Greenhouse Gases Technical Note [REP9-120]. Contributions to the

fourth and fifth carbon budgets would be 0.032% and 0.055% respectively. The explanatory text notes that the Table provides “*an updated contextualisation of With-Project emissions against UK carbon budgets, incorporating the changes arising from consideration of inbound domestic flights, well-to-tank emissions for fuel production in the UK, and emissions from waste incineration*”.

ExA Conclusion on the Significance of Emissions

- 8.4.104. The Applicant’s assessment criteria are based on IEMA Guidance and contextualised against national carbon budgets; there is therefore no reason to contextualise against the CCC Balanced Net Zero Pathway. Additionally, assessing the Proposed Development against UK carbon budgets means that an assessment is made against Paris Treaty obligations as carbon budgets are linked to those obligations.
- 8.4.105. The test of significance is not governed by an increase in emissions but by alignment with net zero. However, the indicative 5% threshold of UK carbon budgets raises the possibility of an effect being significant at this level. The assessment against carbon budgets is separate from a conclusion against policy but there is no reason to assess effects at a local level: this is not a requirement of legislation or national policy.
- 8.4.106. Throughout the Examination the Applicant has revised its findings about the contribution which the Proposed Development makes to UK carbon budgets. The contribution has increased with the addition of domestic inbound flight emissions, WTT emissions and emissions from waste incineration. The Applicant’s revised assessment indicates a contribution of 3.459% to the Sixth Carbon Budget. This does not include inbound international flights (which as the Applicant has acknowledged would double emissions from 0.512MtCO₂e to 1.022MtCO₂e (excluding WTT emissions)), fuel produced outside of the UK or non-CO₂ emissions as these elements cannot be contextualised against UK carbon budgets. It also covers the entire airport rather than just the Proposed Development but on the other hand addresses the period only as far as the end of the Sixth Carbon Budget in 2037 and not the period up to 2050.
- 8.4.107. The Applicant’s evidence also shows that direct aviation emissions are doubled to 44.689MtCO₂e when inbound flights and WTT are included and that the inclusion of WTT emissions increases the total emissions by over 20% between 2018 and 2050 which is a substantial change.
- 8.4.108. Contextualising international inbound aviation emissions against an ICAO sector-based scenario indicated a contribution of 0.13% (with WTT) which for a single project does not appear to be insignificant but doubts about using ICAO are not unreasonable.
- 8.4.109. No definitive evidence has been provided by IPs to demonstrate that the indicative threshold of 5% has been reached (and they are not required to do so). Nevertheless, IPs have raised considerable doubts about the Applicant’s assessment that the Project would result in a 3.459% contribution in the Sixth Carbon Budget. Our judgment is that when other elements which cannot be contextualised against UK carbon budgets are considered, the 5% threshold is likely to be reached for the Project as a whole and a rise beyond 2037 could push the Proposed Development to being a significant adverse effect in EIA terms.

8.5. ExA's CONCLUSION ON GREENHOUSE GAS EMISSIONS

- 8.5.1. GHG emissions and the wider issue of climate change were the focus of many RRs and WRs for obvious reasons. Some of the most passionate contributions to the Examination both orally and in writing were made on these issues and we acknowledge and respect the heartfelt pleas to prevent further airport development. We also recognise that there is no dispute that the Proposed Development would increase GHG emissions.
- 8.5.2. Aviation policy does not impose a capacity limit on UK airports to achieve climate change objectives and the Government's key objective on aviation emissions as set out in the APF, and repeated at paragraph 5.70 of the ANPS, is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions. MBU also emphasises that growth should be subject to environmental issues being addressed.
- 8.5.3. The NPPF notes that the planning system should support the transition to a low carbon future and as set out in paragraph 157 should contribute to radical reductions in GHG emissions while paragraph 159 requires new development to be planned in ways to help reduce GHG emissions.
- 8.5.4. Paragraph 194 of the NPPF also states that the focus of planning policies should be on whether proposed developments are an acceptable use of land, rather than the control of processes or emissions, where these are subject to separate emission control regimes. Carbon emissions are subject to the CCA2008, carbon budgets, the UK ETS and CORSIA.
- 8.5.5. The Applicant has undertaken an assessment of the likely significant climate factors, assessing the carbon impact both from construction and operation and assessed this against the Government's carbon obligations. This has been done before and after mitigation as required by paragraph 5.76 of the ANPS. The assessment has quantified impacts from four sources and assessed worst-case scenarios in accordance with paragraph 5.77.
- 8.5.6. As required by paragraph 5.78 of the ANPS the Applicant has put forward mitigation measures to limit the carbon impact of the Proposed Development through the CAP and SAC which seek to reduce emissions with controls to be exercised by the SoS and local authorities and secured by DCO requirements.
- 8.5.7. The Applicant has assessed the likely significant climate factors of the surface access elements of the Proposed Development in line with paragraph 5.17 of the NNNPS, providing evidence of the carbon impact of the project and an assessment against carbon budgets. It has also set out, in accordance with paragraph 5.19, evidence of appropriate mitigation measures primarily through the SAC but also through DCO requirements which would appropriately manage the carbon footprint. The Applicant has adopted the approach set out in the NNNPS 2024 to address a whole life carbon assessment. Appropriate regard has also been had to local policy requirements.
- 8.5.8. Approximately 95% of the emissions from the Proposed Development are attributable to aviation impacts. These are regulated at national and international levels with potential reductions driven by a range of national aviation policy statements and activities. Among them is the JZS with its High-Ambition trajectory seeking to ensure that Government meets its legal duties including UK carbon

budgets and the achievement of net zero by 2050. Decarbonisation of the aviation sector to achieve these targets would also include measures in the TDP.

- 8.5.9. In line with paragraph 3.5 of the JZS we find no reason why ABAGO emissions arising from the Proposed Development as part of wider airport operations cannot be managed to achieve a zero-emission airport by 2040. Nevertheless, their contribution to the total GHG emissions in the short term would be considerable.
- 8.5.10. We accept that the approach to sustainable growth which envisages no need for direct intervention to limit aviation growth, as described in paragraph 3.57, is a matter for Government. Given legal obligations and taking account of the approach to other recent airport expansion decisions there is no reason to believe that Government will not introduce measures to ensure that the Jet Zero trajectory is achieved. While accepting the economic importance of the aviation sector paragraph 3.61 reiterates support for airport growth within the Government's environmental obligations. Given our doubts regarding the Applicant's assessment of the contribution of the Proposed Development to the Sixth Carbon Budget and carbon targets, we consider that the Proposed Development would be contrary to this requirement.
- 8.5.11. The Applicant concluded that the Proposed Development would have a minor adverse not significant effect and that the impacts were not so significant that they would have a material impact on the ability of the Government to meet its carbon reduction targets, including carbon budgets because it is in line with the trajectory to net zero.
- 8.5.12. The Applicant has adopted the methodology of the IEMA Guidance and contextualised emissions accordingly while acknowledging the difficulties about contextualisation. Paragraphs 5.82 of the ANPS and 5.18 of the NNNPS note that any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets including carbon budgets. We have no clear evidence that the indicative 5% threshold of a carbon budget has been met, while the Applicant's own assessment indicates an effect of over 3.4% but we note that the effects of non-CO₂ emissions, international inbound flights and fuel produced outside the UK were not included. Additionally, this figure relates to the entire airport and covers the period to 2037, not 2050. Nevertheless, our judgment is that were these other factors included the threshold is likely to be reached and a significant adverse effect in EIA terms should be recorded.
- 8.5.13. We have found that the scale of emissions would be such that it is likely that there would be a material impact which would weigh against the Proposed Development in the planning balance. The increase in GHG emissions as part of the Proposed Development would also be contrary to paragraph 5.70 of the ANPS. Consequently, the mitigation measures cannot be considered acceptable contrary to the requirement of paragraph 5.83. While the trajectory of emissions would be towards net zero by 2050, based on the JZS, the Proposed Development would not contribute to radical reductions in GHG emissions as required by the NPPF.
- 8.5.14. We have reviewed recent airport expansion decisions and legal challenges including those at Stansted, Bristol, Luton and London City airports. We also note that the SoS's decision in respect of Manston Airport concluded that carbon emissions should be given neutral weight. However, in the light of the Finch and West Cumbria cases as well as the CBDP we find that the landscape in respect of

GHG emissions has changed. Accordingly, GHG emissions is afforded moderate weight against the Proposed Development in the planning balance.

9. CLIMATE CHANGE

9.1. INTRODUCTION

- 9.1.1. This Chapter considers the effects of the Proposed Development in relation to climate change resilience (CCR) and in-combination climate change impacts (ICCI). CCR is the resilience of the design, construction and operation of the Proposed Development to projected future physical impacts of climate change. ICCI are the combined effects of the Proposed Development and potential future climate change impacts on the receiving environment and community.
- 9.1.2. Climate change was raised in over 1700 Relevant Representations (RR) and was identified in the Examining Authority's (ExA) Initial Assessment of Principal Issues alongside greenhouse gas (GHG) emissions [PD-009].

9.2. THE APPLICATION

OVERVIEW

- 9.2.1. Environmental Statement (ES) Chapter 15: Climate Change [APP-040] assessed the potential effects of current and future climate change on the Proposed Development, receiving environment and community. A number of supporting figures and appendices to ES Chapter 15 were also submitted. A full list can be found in Table A1 of Appendix A of this Report.
- 9.2.2. The potential effects on, and the contribution of the Proposed Development to, the climate was reported in ES Chapter 16: Greenhouse Gases [APP-041] and is discussed separately in the preceding Chapter 8 of this Report.
- 9.2.3. ES Chapter 15 and its associated figures and appendices should be read as part of the wider ES with particular reference to ES Chapter 9: Ecology and Nature Conservation [APP-034], ES Chapter 11: Water Environment [APP-036] and ES Chapter 13: Air Quality [APP-038].

Policy Context

- 9.2.4. The Applicant set out how the requirements of the Airports National Policy Statement (ANPS) and National Networks National Policy Statement (NNNPS) are addressed in Table 15.2.1 of ES Chapter 15 [APP-040].
- 9.2.5. The Applicant confirmed (Table 15.2.1, [APP-040]) that the range of impacts of climate change was considered using the latest UK climate projections, UK Climate Projections 2018 (UKCP18) in accordance with paragraph 4.46 of the ANPS and paragraph 4.41 of the NNNPS.
- 9.2.6. A sensitivity analysis using the latest UKCP18 Probabilistic Projections of Climate Extremes (PPCE) is detailed in ES Appendix 15.5.1: Sensitivity Analysis – Climate Extremes [APP-185]. Critical features of infrastructure were assessed against PPCE in the CCR Assessment [APP-187] and ICCI Assessment [APP-188] in accordance with paragraph 4.48 of the ANPS.
- 9.2.7. The Applicant states (Table 15.2.1, [APP-040]) that elements of the design have been developed to account for climate change adaption and would be implemented at the time of construction in accordance with paragraph 4.51 of the ANPS. These are captured within the Design and Access Statement (DAS) (para 6.6.5, [AS-156]) as outline climate resilience design principles and measures.

CLIMATE CHANGE RESILIENCE

- 9.2.8. The Applicant's CCR Assessment [APP-187] differs from many other Environmental Impact Assessment (EIA) topics in that it considered how the resilience of the Proposed Development may be affected by an external factor (climate change), not how environmental receptors may be affected by the Proposed Development's impacts. The Applicant undertook a risk analysis-based approach using a combination of likelihood and consequence to determine the level of risk.

Construction Phase

- 9.2.9. The potential impacts as a result of climate change are detailed in ES Chapter 15 [APP-040] and the CCR Assessment [APP-187]. The hazards identified that may affect the geographical location of the Proposed Development in the construction phase are:

- an increased number of extremely hot days; and
- climate change in the 2024-2047 time period and increased probability of extreme weather events.

- 9.2.10. The Applicant outlines the embedded mitigation measures in Table 15.8.4 [APP-040]. Those relevant to the construction phase are:

- adherence to the latest Gatwick Airside Operations Airside Weather Plan as required by UK Civil Aviation Authority (CAA) regulation; and
- adverse weather measures during construction in the Code of Construction Practice (CoCP) [REP9-031].

Operational Phase

- 9.2.11. The hazards identified that may affect the geographical location of the Proposed Development in the operational phase are:

- an increased number of extremely hot days;
- extreme cold weather;
- an increased frequency of flooding from river, surface and groundwater sources;
- an increased risk of drought;
- extreme wind speeds; and
- an increased risk of lightning strikes.

- 9.2.12. The Applicant outlines the embedded mitigation measures in Table 15.8.4 [APP-040]. Those relevant to the operational phase are:

- outline CCR design principles and example measures for heating and cooling in the Design and Access Statement (DAS) [REP9-062], supported by the Carbon Action Plan [APP-091] which commits to net zero by 2030 for Scope 1 and 2 emissions¹²;
- adherence to the latest Gatwick Airside Operations Airside Weather Plan as required by UK CAA regulation;
- landscape and ecology mitigation measures in the outline Landscape and Ecology Management Plan (oLEMP) [REP9-047];

¹² Scope 1: direct emissions of GHGs from plant, equipment, vehicles owned by the reporting corporate entity. Scope 2: indirect emissions of GHGs associated with purchased electricity, steam, heating and cooling. Scope 3: other GHG emissions arising from the activities of the organisation including those associated with construction, transportation, waste, water, business travel and employee commuting.

- measures to ensure there is no adverse impact on flood risk in the Flood Resilience Statement [Annex 6, REP9-055] and Surface Access Drainage Strategy [Annex 2, REP8-080]; and
- outline CCR design principles [REP9-062] and example measures for water stress in the Water Management Plan [REP8-026].

Applicant's Conclusion

- 9.2.13. The CCR assessment [APP-187] identified that there would be no high or very high risks (which would be considered significant) in either the construction or operational phases. The assessment therefore states that no further mitigation is required. No monitoring was proposed as the existing and embedded mitigation identified was considered by the Applicant to be sufficient (para 1.1.3, [APP-187]).

IN-COMBINATION CLIMATE CHANGE IMPACT

- 9.2.14. The Applicant's ICCI Assessment [APP-188] followed the same approach to assessing impacts and determining significance as for each of the other individual ES topics, in addition to the consideration of future climate change projections.
- 9.2.15. The ICCI Assessment assesses the extent to which climate change exacerbates a potential effect of the Proposed Development on an environmental receptor. Phase 1 of the assessment considered the effects already identified by ES topics based upon their own impact assessment methodologies, and screened out any ICCIs that were considered unlikely to occur.
- 9.2.16. An extensive list of embedded mitigation and monitoring measures for both the construction and operational phase is set out in Table 15.9.1 of ES Chapter 15 [APP-040] including how the various measures are secured in the control documents.
- 9.2.17. Phase 2 assessed the consequence of the likely ICCIs identified in Phase 1 and determined the significance of each taking into account the embedded mitigation measures.

Applicant's Conclusion

- 9.2.18. The ICCI Assessment concluded that no significant impacts were identified during the construction or operational periods given the mitigation identified. The assessment therefore states that no further mitigation is proposed. As with the CCR Assessment, no monitoring was proposed as the existing and embedded mitigation identified was considered by the Applicant to be sufficient (para 1.1.8, [APP-188]).

REVIEW OF EMBEDDED MITIGATION MEASURES

- 9.2.19. The Applicant explained in both the CCR and ICCI Assessments (para 1.1.4, [APP-187] and para 1.1.10, [APP-188]) that it has procedures to check the efficacy of embedded mitigation measures and keep them under review. The Applicant states that, during the operational phase, these procedures could be formalised and aligned with its Task Force for Climate-Related Disclosures mandatory reporting and its 5-year review cycle for the Climate Adaptation Risk Assessment reporting to the Government under the Adaptation Reporting Power (ARP). All major airport and infrastructure operators currently report under the ARP (as part of the 2008 Climate Change Act (CCA2008)), and this reporting may become mandatory in the future.

9.3. ISSUES CONSIDERED DURING THE EXAMINATION

9.3.1. The Examination featured the following matters relating to CCR and ICCL:

- Assessment methodology in the climate impact statements.
- Wildfire and fog.
- The Applicant's Adverse Weather Plan (AWP).
- Drainage, flood resilience and Water Environment.
- Overheating relating to noise insulation scheme.

9.3.2. Apart from the issues addressed in this Section, no other Interested Parties (IPs) specifically addressed the content of ES Chapter 15 or its associated figures and appendices.

CLIMATE CHANGE TECHNICAL NOTES

9.3.3. The Applicant produced a series of Supporting Climate Change Technical Notes to Statements of Common Ground (SoCG) [REP4-039] at Deadline (D) 4. The technical notes provided responses to concerns raised by some of the local planning authorities (LPAs) as set out in the following paragraphs.

Assessment Methodology in The Climate Impact Statements

9.3.4. Concern was raised in the Principal Areas of Disagreement Summary Statement (PADSS) of some LPAs including Crawley Borough Council (CBC) and West Sussex County Council (WSCC) [AS-061 and AS-072] regarding the methodology of the climate impact statements. The concern specifically was that the climate impact statements (Table 15.8.5 and Table 15.8.6 of ES Chapter 15 [APP-040]) were lacking in consistency in that some were missing an 'impact'. They had a cause but no end 'impact'.

9.3.5. Whilst other LPAs considered the matter resolved by D4, WSCC and CBC felt that further detail and clarity around impact statements was required. The Climate Change Technical Note concerning climate impact statements (Appendix B, [REP4-039]) provided clarification that the end 'impact' is presented as an overall combined consequence rating along with its justification and the technical note included a diagram to show how the assessment breaks down the impact chain for each identified risk.

9.3.6. The D5 SoCGs between the Applicant and both CBC [REP5-037] and WSCC [REP5-055] record that this issue was considered addressed.

Wildfire And Fog

9.3.7. CBC and WSCC raised concern in their PADSS [AS-061 and AS-072] that wildfire was not mentioned as a possible climate hazard in the Applicant's assessment and that risks associated with fog were also not included in the assessment.

9.3.8. The Climate Change Technical Note concerning wildfire and fog [Appendix A, REP4-039] submitted by the Applicant concluded that as the CCR Assessment did not identify any high or very high risks (considered significant in EIA terms) for wildfire during construction or operation, no further mitigation would be required.

9.3.9. The D5 SoCGs between the Applicant and both CBC [REP5-037] and WSCC [REP5-055] record that the Climate Change Technical Note (Appendix A, [REP4-039]) is considered to address this issue.

Adverse Weather Plan

- 9.3.10. CBC, WSCC, Reigate and Banstead Borough Council (RBBC) and Surrey County Council (SCC) [AS-061, AS-068, AS-070 and AS-072] raised concern in their PADSS that the identification of construction risks was limited. These LPAs stated that the Applicant should undertake a more detailed identification and assessment of construction related climate risks and distinguish areas that are particularly vulnerable and may require specific adaptation measures to be in place.
- 9.3.11. The Climate Change Technical Note concerning the AWP (Appendix C, [REP4-039]) provided a review of the Applicant's AWP against good practice documents and specifically what measures were considered during construction by the Applicant and how these measures could be enhanced and cover the full range of climate hazards and extreme events. The review concluded with a number of recommendations which the Applicant confirmed would be included in the next update of the AWP which was expected to be published in October 2024.
- 9.3.12. The D5 SoCGs between the Applicant and CBC [REP5-037], WSCC [REP5-055], RBBC [REP5-049] and SCC [REP5-051] record that this issue was considered to be addressed.

DRAINAGE, FLOOD RESILIENCE AND WATER ENVIRONMENT

Communities Against Gatwick Noise Emissions

- 9.3.13. Communities Against Gatwick Noise Emissions (CAGNE) raised concerns in its Written Representation [REP1-150] about increased rainfall as result of climate change and how this will affect flooding in the area. The Applicant's Response to Written Representations [REP3-072] explained that the Proposed Development is not expected to increase future flood risk and that this was demonstrated in the Applicant's Flood Risk Assessment [AS-078].
- 9.3.14. Further discussion on flood risk, including general comments and concerns of IPs regarding increased risk of flooding, is contained within Chapter 11 of this Report, Water Environment.

National Highways

- 9.3.15. National Highways (NH) raised concern [RR-3222] that there was little evidence in the ICCI Assessment in terms of operational preparedness or embedded mitigation in place. In the D1 SoCG between the Applicant and NH [REP1-036], it was clarified that NH's interest in this matter was to understand whether any resilience measures intended for its network complied with its standards, including allowances required for climate change in drainage infrastructure and flood resilience.
- 9.3.16. It was confirmed by NH in the signed SoCG between the Applicant and NH [REP10-017] that the Framework Agreement signed between both parties affords NH the necessary level of protection to ensure that its concerns regarding drainage infrastructure and flood resilience can be agreed for the purposes of the Examination.

Environment Agency

- 9.3.17. The SoCG between the Applicant and the Environment Agency (EA) [REP10-015] recorded no issues relating to climate change. In respect of the water environment all issues were agreed.

OVERHEATING RELATING TO NOISE INSULATION SCHEME

- 9.3.18. The Joint West Sussex Local Authorities (JWSLAs) raised concern in their Local Impact Report (LIR) (para 14.248, [REP1-068]) that no provision was made to prevent overheating in residential properties subject to noise insulation measures as part of the Noise Insulation Scheme. Mole Valley District Council (MVDC) requested in its PADSS (row MV12, [REP5-101]) that an 'Overheating Assessment' be undertaken by the Applicant.
- 9.3.19. The Applicant was asked in the ExA's second written questions (ExQ2) ExQ2 HW.2.12 [PD-021]) whether an Overheating Assessment was necessary. The Applicant stated in response [REP7-084] that due to the diverse range of housing stock, it would not be feasible to carry out any meaningful assessment of the risk of overheating to all affected properties. The Applicant explained that the potential for internal rooms to overheat as a result of noise insulation measures is reduced due to the ventilation measures provided within the acoustic package for properties where overheating is a concern. The Applicant's approach to reducing overheating is set out in the Noise Insulation Scheme [REP8-086]. It provides for thermal insulation to loft spaces and acoustic ventilators. However, the Applicant stated in its closing submissions [REP9-112] that ventilators do not completely negate the need to open windows in certain circumstances.
- 9.3.20. MVDC maintained in its final PADSS [REP9-154] its position that an 'Overheating Assessment' is required to demonstrate adequacy of the ventilation scheme. Chapter 6 of this Report, Noise and Vibration addresses the adequacy of the Applicant's Noise Insulation Scheme. Chapter 15 of this Report, Health and Wellbeing addresses the issue of overheating in more detail. We consider that our recommended requirement (R18) in our Recommended Development Consent Order (rDCO) would ensure that concerns about overheating would be addressed. However, based on the Applicant's final draft DCO then we cannot be certain that the concerns about overheating would be adequately addressed because ventilators would not address the wish or need for occupants to open windows in certain circumstances.

9.4. ExA's CONCLUSION ON CLIMATE CHANGE

- 9.4.1. We are satisfied that the Applicant has undertaken its assessment in accordance with the approach proposed in the ANPS and taken account of other relevant legislation and policy requirements. We agree with the Applicant's conclusion that there are unlikely to be any significant effects associated with climate change. Moreover, we are satisfied that there are not features of the design critical to its operation which may be seriously affected by more radical changes to the climate beyond that projected.
- 9.4.2. We have taken account of concerns about overheating arising from the noise insulation scheme and while we do not consider that the Applicant's preferred approach would overcome these concerns, R18 in the rDCO would address this matter.
- 9.4.3. Consequently, we conclude that the requirements in respect of climate change set out in the ANPS and NNNPS are met. Our overall conclusion is that climate change would have a neutral effect in the planning balance and does not weigh for or against the making of the Order either as applied for or with the rDCO in place.

10. SOCIOECONOMICS

10.1. THE APPLICATION

10.1.1. The Applicant's assessment of socioeconomics was primarily contained within Chapter 17 of the Environmental Statement (ES) [APP-042]. For the purposes of this Report, the assessment included:

- construction phase;
 - economy, labour market, disruption, population, community, sports, and open space; and
- operation phase;
 - economy, labour market, disruption, population, community.

10.1.2. ES Chapter 17 [APP-042] was also supported by the following documents:

- ES Appendix 17.2.1: Summary of Local Plan Policies [APP-195];
- ES Appendix 17.3.1: Summary of PEIR Responses for Socio-Economics [APP-196];
- ES Appendix 17.6.1: Socio-Economic Data Tables [APP-197];
- ES Appendix 17.8.1: Employment, Skills and Business Strategy [APP-198];
- ES Appendix 17.9.1: Gatwick Construction Workforce Distribution Technical Note [APP-199];
- ES Appendix 17.9.2: Local Economic Impact Assessment [APP-200]; and
- ES Appendix 17.9.3: Assessment of Population and Housing Effects [APP-201].

10.1.3. A list of supporting figures is detailed at paragraph 17.1.5 of ES Chapter 17 [APP-042].

10.1.4. The Applicant confirmed [APP-042] that the scope of the socioeconomic assessment was developed in consultation with relevant statutory and non-statutory consultees. The assessment analysed potential socioeconomic effects of the Proposed Development on receptors in up to five separate study areas, depending on the nature of the effect being assessed. The study areas were:

- project site boundary;
- local study area (LSA);
- northern west Sussex functional economic market area (FEMA);
- labour market area (LMA); and
- six authorities area (SAA).

10.1.5. The effects were then set out separately for the indicative construction and operational periods across five assessment periods or individual years comprising:

- initial construction period (2024 - 2029);
- first full year of opening (2029);
- interim assessment year (2032);
- design year (2038); and
- final assessment year (2047).

10.1.6. Table 17.4.1 of ES Chapter 17 [APP-042] provides detail of the potential effects and receptors considered within the socioeconomic assessment. With Table 17.4.2 of ES Chapter 17 [APP-042] providing detail of those effects which were scoped out of the assessment.

10.1.7. The Applicant also confirmed [APP-042] that a desktop review was undertaken to identify existing and future socioeconomic conditions within each of the study areas listed above. The main baseline data sources used for the assessment were listed at paragraph 17.4.15 of ES Chapter 17 [APP-042] and it was confirmed that as most of the baseline data used is updated on an annual basis, the Applicant considered that the baseline analysis presented the latest available evidence.

10.1.8. No residual significant adverse effects were identified by the Applicant. As such, no specific mitigation measures were proposed in relation to socioeconomic receptors. However, the following residual significant beneficial effects were reported [APP-042]:

Table 10.1: Initial Construction Period - 2024 to 2029

Receptor	Study Area	Impact	Significance of Effect
Construction business and activity	LSA	Direct employment	Significant moderate beneficial
	FEMA		
	LMA		

Table 10.2: First Full Year of Opening - Construction 2030 to 2032

Receptor	Study Area	Impact	Significance of Effect
Construction business and activity	LSA	Direct employment	Significant moderate beneficial
	FEMA		
	LMA		

Table 10.3: First Full Year of Opening - Operation 2029

Receptor	Study Area	Impact	Significance of Effect
Business and commercial activity	FEMA	Indirect, induced and catalytic employment	Significant moderate beneficial
	LMA		

Table 10.4: Interim Assessment Year - 2032 to Operation

Receptor	Study Area	Impact	Significance of Effect
Business and commercial activity	LSA	Direct employment	Significant major beneficial
Business and commercial activity	LSA	Indirect, induced and catalytic employment	Significant moderate beneficial
	FEMA		
	LMA		

Table 10.5: Design Year - 2038

Receptor	Study Area	Impact	Significance of Effect
Business and commercial activity	LSA	Direct employment	Significant major beneficial
Business and commercial activity	LSA	Indirect, induced and catalytic employment	Significant moderate beneficial
	FEMA		
	LMA		

Table 10.6: Long-Term Forecast - 2047

Receptor	Study Area	Impact	Significance of Effect
Business and commercial activity	LSA	Direct employment	Significant major beneficial
Business and commercial activity	LSA	Indirect, induced and catalytic employment	Significant moderate beneficial
	FEMA		
	LMA		
Labour market	LSA	Availability of labour	Significant moderate beneficial
	FEMA		

10.1.9. In terms of the actual economic benefits the Proposed Development is anticipated to deliver, ES Appendix 17.9.2 Local Economic Impact Assessment [APP-200] reached the following conclusions contained in the below tables:

Table 10.7: Direct Effects¹³

Type of effect	Increase in employment at Gatwick Airport	Increase in GVA
Direct effects	By 2029 - employment would increase by 1000 jobs By 2038 - employment would increase by 3200 jobs By 2047 - employment would increase by 3100 jobs	By 2029 - GVA would increase by £73 million By 2038 - GVA would increase by £263 million By 2047 - GVA would increase by £286 million

¹³ Direct effects - Economic activity of firms on site at the airport. Examples include air crews or airport management staff.

Table 10.8: Indirect Effects¹⁴

Type of effect	Increase in employment	Increase in GVA
Indirect effects in terms of the Gatwick Diamond Area	<p>By 2029 - employment would increase by 200 jobs</p> <p>By 2038 - employment would increase by 700 jobs</p> <p>By 2047 - employment would increase by 700 jobs</p>	<p>By 2029 - GVA would increase by £14 million</p> <p>By 2038 - GVA would increase by £51 million</p> <p>By 2047 - GVA would increase by £55 million</p>
LMA indirect effects	<p>By 2029 - employment would increase by 300 jobs</p> <p>By 2038 - employment would increase by 1000 jobs</p> <p>By 2047 - employment would increase by 1000 jobs</p>	<p>By 2029 - GVA would increase by £21 million</p> <p>By 2038 - GVA would increase by £77 million</p> <p>By 2047 - GVA would increase by £84 million</p>
SAA indirect effects	<p>By 2029 - employment would increase by 600 jobs</p> <p>By 2038 - employment would increase by 2100 jobs</p> <p>By 2047 - employment would increase by 2000 jobs</p>	<p>By 2029 - GVA would increase by £43 million</p> <p>By 2038 - GVA would increase by £156 million</p> <p>By 2047 - GVA would increase by £170 million</p>
UK indirect effects	<p>By 2029 - employment would increase by 900 jobs</p> <p>By 2038 - employment would increase by 2800 jobs</p> <p>By 2047 - employment would increase by 2700 jobs</p>	<p>By 2029 - GVA would increase by £58 million</p> <p>By 2038 - GVA would increase by £212 million</p> <p>By 2047 - GVA would increase by £230 million</p>

¹⁴ Indirect effects - Economic activity in the supply chain of Gatwick and other firms located at Gatwick airport, such as aircraft parts manufacturers or maintenance firms. These firms in the supply chain are not based at the airport. The estimated indirect impacts are restricted to those occurring within the UK.

Table 10.9: Induced Effects¹⁵

Type of effect	Increase in employment	Increase in GVA
Gatwick Diamond Area induced effects	<p>By 2029 - employment would increase by 300 jobs</p> <p>By 2038 - employment would increase by 900 jobs</p> <p>By 2047 - employment would increase by 800 jobs</p>	<p>By 2029 - GVA would increase by £18 million</p> <p>By 2038 - GVA would increase by £66 million</p> <p>By 2047 - GVA would increase by £72 million</p>
LMA induced effects	<p>By 2029 - employment would increase by 400 jobs</p> <p>By 2038 - employment would increase by 1200 jobs</p> <p>By 2047 - employment would increase by 1100 jobs</p>	<p>By 2029 - GVA would increase by £24 million</p> <p>By 2038 - GVA would increase by £88 million</p> <p>By 2047 - GVA would increase by £96 million</p>
SAA induced effects	<p>By 2029 - employment would increase by 400 jobs</p> <p>By 2038 - employment would increase by 1300 jobs</p> <p>By 2047 - employment would increase by 1300 jobs</p>	<p>By 2029 - GVA would increase by £27 million</p> <p>By 2038 - GVA would increase by £98 million</p> <p>By 2047 - GVA would increase by £106 million</p>
UK induced effects	<p>By 2029 - employment would increase by 1100 jobs</p> <p>By 2038 - employment would increase by 3500 jobs</p> <p>By 2047 - employment would increase by 3400 jobs</p>	<p>By 2029 - GVA would increase by £73 million</p> <p>By 2038 - GVA would increase by £263 million</p> <p>By 2047 - GVA would increase by £286 million</p>

¹⁵ Induced effects - Economic activity due to workers, both on site and in the supply chain, spending their wages on activities that are not necessarily associated with, or located close to, the airport, such as barbers and restaurants.

Table 10.10: Total Catalytic Effect in the SAA

	2029 (no. of jobs)	2038 (no. of jobs)	2047 (no. of jobs)
Total net employment impact	4500	13700	12800
Combined footprint	2000	6600	6400
Catalytic effect	2500	7200	6500

- 10.1.10. In respect of Table 10.10, the catalytic effect is estimated as the difference between the total net employment impact of the Proposed Development in the SAA and the combined direct, indirect, and induced footprint of the Proposed Development in the same area.

Table 10.11: The Proposed Development’s Catalytic Effects: Disaggregation

	2029	2038	2047
Catalytic GVA			
Gatwick Diamond	£40 million	£128 million	£131 million
Labour Market Area	£97 million	£311 million	£318 million
Six Authorities	£168 million	£538 million	£550 million
Catalytic employment			
	Number of jobs		
Gatwick Diamond	600	1700	1500
Labour Market Area	1400	4100	3700
Six Authorities	2500	7200	6500

- 10.1.11. In addition to the above, the Applicant also stated that other benefits would also be realised because of the Proposed Development, but these had not been captured in the assessment [APP-251]. These included the potential impact on tourism, competition, resilience, and freight.
- 10.1.12. In respect of tourism, the Applicant further stated that there would be a potentially positive effect, through increased services and reduced fares, as well as an increase in expenditure in the UK by inbound tourists as well as overseas by outbound tourists. However, these effects had not been quantified given the lack of available evidence on how tourism could generate welfare impacts on the UK economy [REP9-112].

10.2. ISSUES CONSIDERED DURING THE EXAMINATION

- 10.2.1. Over 890 Relevant Representations (RR) provided comment in respect of socioeconomic effects of the Proposed Development. Having taken these into account, alongside the submitted application documents, we considered that socioeconomics should be one of the initial principal issues for the Examination. The Initial Assessment of Principal Issues is set out in Annex C of the Rule 6 letter [PD-009].

10.2.2. We further considered that the following issues should be examined in greater detail:

- the socioeconomic assessment methodology;
- economic effects and benefits;
- effects on the housing market;
- Section 106 agreement - Schedule 5: Employment, Skills and Business Strategy (ESBS) and Appendix 6: Draft ESBS Implementation Plan; and
- Gatwick Community Fund.

Socioeconomic Assessment Methodology

10.2.3. The Applicant confirmed in ES Chapter 17 [APP-042] that there was currently no UK legislation or guidance that specified the detailed content required to prepare a socioeconomic assessment. Whilst the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) identify population as a factor to be considered within the assessment process, it does not provide any definitive guidance on the approach, process, or methodology to follow.

10.2.4. The Airports National Policy Statement (ANPS) provides general guidance on the approach to considering the socioeconomic effects of development and the Applicant confirmed at paragraph 17.4.1 of [APP-042] that this has informed the methodology used.

10.2.5. As such at paragraph 17.4.2 of [APP-042] the Applicant confirmed that the methodology used for the socioeconomic assessment was based on accepted industry practice, a review of socioeconomic assessments from other relevant projects and feedback from the Planning Inspectorate (the Inspectorate) and local authorities during the pre-application consultation process.

10.2.6. Despite this, throughout the Examination concern was raised by several of the local authorities that given the absence of an impact assessment at the local authority district level, there was a risk of impacts at the local authority level which may not have been assessed.

10.2.7. This concern was detailed in several of the Local Impact Reports (LIRs), examples include but are not limited to:

- Joint West Sussex Local Authorities (JWSLAs) LIR [REP1-068] – at paragraph 18.2 the authorities encouraged the Applicant to undertake an assessment of potential effects on employment at a local level, as it had only been undertaken using an aggregated approach at the LSA, FEMA, LMA and SAA levels. At paragraph 18.37, the JWSLAs stated that whilst the findings contained within the assessment were important, they were not appropriate substitutes for an impact analysis at the local authority level especially given potential shortfalls in labour supply in some of the local areas.
- Joint Surrey Councils (JSCs) LIR [REP1-097] – in respect of the assessment findings regarding affordable housing, at paragraph 15.94 it was stated that *“If this exercise were done at a local authority level however, the figures would be very different and the true impacts at local authority level are being hidden”*.

10.2.8. This matter was also discussed during Issue Specific Hearing (ISH) 3 - Socioeconomics [EV8-001 and EV8-002] where we asked both the Applicant and the Legal Partnership Authorities (LePAs) to comment on whether it was considered that the socioeconomic assessment had been undertaken at an appropriate level.

- 10.2.9. In response, the Applicant explained [REP1-058] that the approach taken was to define a series of assessment areas that related to the nature of the different potential effects being considered within the socioeconomic assessment. The Applicant did not consider that defining and assessing such effects at the individual local authority level was the most appropriate basis for assessment purposes for the following three reasons:
- The need for different assessment areas across a number of spatial scales to reflect the different type and range of sub-topics included within the socioeconomic assessment, which ranged from employment, labour market, population and housing, to business and resident disruption.
 - The approach had regard to national planning practice guidance (NPPG) where relevant, for example the use of the FEMA in the case of planning for the economy, or housing market areas in the case of preparing housing need assessments.
 - That in dynamic, highly interrelated and inter-connected local economies such as those that existed around Gatwick Airport, as well as government support for labour market flexibility more generally, impacts should not be confined to individual local authority boundaries.
- 10.2.10. The assessment areas were considered appropriate and proportionate [REP1-058] and that they assessed significance at the most relevant and meaningful study area level relative to the type of impact being assessed. The Applicant further considered it neither necessary nor appropriate to base assessments on local authority areas in circumstances where impacts would not reflect local government administrative boundaries.
- 10.2.11. The Applicant also stated that '*ES Appendix 17.6.1 – Socio-Economic Data Tables*' [APP-197], set out some data at local authority level. The Applicant considered that this data would enable local authorities to contextualise the potential impacts of the Proposed Development within their specific administrative boundaries.
- 10.2.12. However, the LePAs considered [REP1-213] that the Applicant's '*one size fits all assessment area or areas*' was not an appropriate approach for the socioeconomic assessment. Whilst the LePAs agreed that multiple study areas were necessary, an assessment on local areas to recognise and determine impact and implications at the local authority level was also required. As such, it was found that the aggregated approach to the assessment adopted by the Applicant had failed to capture such subtleties.
- 10.2.13. It was acknowledged [REP1-213] that although the Applicant had added some '*local*' data within the appendices supporting the assessment, it was incorrect to say the Applicant had tabulated the impact that could arise at the relevant local authority level. The LePAs also noted that there was no assessment or analysis of local authority baseline, which would set the context and understand local need and constraints, nor was there any assessment and interpretation of the included '*local data*'.
- 10.2.14. In addition to the discussions held during ISH3 – Socioeconomics [EV8-001 and EV8-002], we also asked a further question at the second round of written questions (ExQ2). Given that it was evident that agreement had not been reached by ISH3 in respect of this issue, we asked for an update regarding the position of the parties at ExQ2.SE.2.12 [PD-021].

- 10.2.15. Both parties provided an update, confirming that the position had not changed from ISH3. The LePAs [REP7-110] remained concerned that the lack of local impact analysis was a major issue as it meant that the assessment had not considered socioeconomic consequences at the local level.
- 10.2.16. In contrast, the Applicant considered [REP7-091] that as it had assessed significance at the relevant functional economic and/ or housing market area level, this complied with the Inspectorate's guidance '*Annex to Advice Note 7: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements*'. The Applicant considered that the different study areas used within the socioeconomic assessment complied with the requirements detailed in the Inspectorate's '*Annex to Advice Note 7*' as well as NPPG on defining economic and housing market areas more generally.
- 10.2.17. Additionally, the Applicant also noted that some of the local authorities had indicated that there would be effects at the local authority level that would not be apparent at the functional market area level, and that when considered at local authority level these may require mitigation. The Applicant stated that it did not consider this to be the case and had not seen any evidence from the authorities in their submissions to suggest that there would be significant adverse effects that would require mitigation [REP7-091].
- 10.2.18. Considering these responses, at ISH9 - Socioeconomics [EV20-015 and EV20-017] we asked the Applicant and LePAs to comment on compliance with paragraph 4.5 of the ANPS, in the context of paragraph 4.4, which referred to impacts being considered at national, regional, and local levels.
- 10.2.19. The Applicant [REP8-109] commented that paragraph 4.5 was not prescriptive and did not refer specifically to local authority areas. As such, the Applicant did not consider that the ANPS specifically required an assessment to be carried out at local authority level.
- 10.2.20. The LePAs acknowledged that disagreement between the parties remained in respect of the issue of the socioeconomic assessment [REP8-167]. Whilst the LePAs accepted that the Applicant had provided raw data at the district/ borough level in the ES chapter [APP-042], as previously stated it had not analysed or assessed the data to determine possible implications at the local authority level. The LePAs believed that the omission was significant in terms of assessing economic effects and suggested that this must go to the weight that could be given to economic benefits. This was because if there were aspects of the economic assessment which had not adequately considered negative effects, that would temper weight that could be given to any positive impacts.
- 10.2.21. The position of both parties remained unchanged at the end of the Examination and was reflected in the Applicant's Closing Submissions [REP9-112] and the LePAs Closing Statement [REP9-151].

ExA's Conclusion on the Socioeconomic Assessment Methodology

- 10.2.22. We have taken into consideration the guidance detailed in the Inspectorate's '*Annex to Advice Note 7*' and the policy within the ANPS. Whilst we note the concerns raised by various local authorities regarding the scale of the socioeconomic assessment, we are satisfied that the ANPS did not specifically state the assessment should be undertaken at a local authority level.

10.2.23. We are therefore satisfied that the Applicant has undertaken an appropriate assessment in terms of socioeconomics and that the assessment has adequately identified the effects of the Proposed Development.

Economic Effects and Benefits

Catalytic Employment Assessment

10.2.24. We note that in the Applicant's Closing Submissions [REP9-112] it was stated that it was common ground with the JLAs by the end of the Examination that the estimates of direct, indirect, and induced employment figures were robust and that these were considered beneficial and that the worst-case scenario regarding employment benefits had been adequately addressed.

10.2.25. However, the main issue which remained unresolved was the likely scale of catalytic employment, and specifically the methodology used to assess catalytic employment benefits.

10.2.26. It was confirmed by the Applicant that catalytic effects were considered by estimating the total net impact of the Proposed Development using an elasticity of traffic to net employment in the SAA, from which the direct, indirect, and induced footprint would be subtracted to give catalytic effects. The Applicant stated that this issue was a relatively small part of the socioeconomic assessment and that it remained confident that its assessment was robust and accurate [REP9-112].

10.2.27. However, the following local authorities, in their Principal Areas of Disagreement Summary Statements (PADSS) all reported levels of concern regarding the methodology by which the catalytic effects of the Proposed Development had been assessed:

- Crawley Borough Council (CBC) [REP9-133];
- East Sussex County Council (ESCC) [REP9-136]
- Horsham District Council (HDC) [REP-139];
- Mid Sussex District Council (MSDC) [REP9-152];
- Mole Valley District Council (MVDC) [REP9-154];
- Reigate and Banstead Borough Council (RBBC) [REP9-166];
- Surrey County Council (SCC) [REP9-168];
- Tandridge District Council (TDC) [REP9-171]; and
- West Sussex County Council (WSCC) [REP9-172].

10.2.28. In Kent County Council's (KCC) Closing Statement [REP9-146], it was also stated that the wider economic benefits of the Proposed Development had been overstated.

10.2.29. This issue was widely discussed throughout the Examination, and was also identified as an issue with the following LIRs:

- JWSLAs LIR [REP1-068];
- ESCC LIR [REP1-070]; and
- JSCs LIR [REP1- 097].

10.2.30. Appendix A of [REP1-070] contained a 'Needs Case Review' which had been undertaken by York Aviation (YA) on behalf of ESCC. Within this review, YA concluded that the methodology by which the wider catalytic impacts in the local area had been assessed was not robust and that little reliance could be placed on

this assessment. Consequently, we requested at ExQ1.SE.1.20 [PD-012] that the Applicant provide a response to this concern.

- 10.2.31. In its response [REP3-103], the Applicant accepted that there were certain aspects of the catalytic impact methodology that may benefit from clarifications. These were discussed in more detail in the Applicant's *'Response to the Local Impact Reports'* [REP3-078]. The Applicant confirmed that the methodology applied was robust and was superior to estimates that would otherwise be generated using multipliers on additional air traffic, and much more likely to inform discussions around the Proposed Development's impact on employment rates in affected local authorities [REP3-103].
- 10.2.32. At ExQ2.SE.2.16 [PD-021] we asked whether the Applicant would be preparing any further submissions in respect of this issue. At [REP7-077] the Applicant provided an *'Explanatory Note on Catalytic Employment'* which concluded that a statistical approach was used to identify the magnitude of the total impact on employment from the Proposed Development. The statistical approach was chosen to address two challenges, firstly displacement, that is some of these jobs would exist locally even without the Proposed Development and secondly causality which is the impact specific to employment generated by additional airport activity, not the opposite. The Applicant contended that if these two challenges were left unaddressed, a major over-estimate of the impact on local employment of the increase in traffic arising from the Proposed Development would occur.
- 10.2.33. The Applicant also stated that there were several issues with the approach suggested by YA, including the following:
- That it would fail to address the displacement issue and focuses on catalytic employment and implies that only the footprint of the airport's own activity would be reflected without taking account of wider consequent effects and would therefore overstate impacts.
 - The relationship measured would be overly time dependent, it would be very dependent on the definition of the catchment area used, and the share of local demand in the baseline year.
 - It would require a disproportionate data collection and data cleaning exercise.
 - If Civil Aviation Authority (CAA) data was used it would not be possible to separate out the share of the demand that was stimulated by airport activity from the share that itself stimulates airport activity. This would raise the causality issue that the Applicant's assessment seeks to avoid.
 - It would be necessary to develop a new analytical framework which would not be proportionate.
- 10.2.34. At ISH9 – Socioeconomics [EV20-015 and EV20-17], following the submission of the *'Explanatory Note on Catalytic Employment'* [REP7-077], we asked the LePAs whether the information contained within the note had alleviated their concerns in respect of this issue.
- 10.2.35. The LePAs confirmed [REP8-167] that discussions had been held with the Applicant regarding this issue, however their concern had shifted, insofar as they now considered that the methodology used may have understated employment. This in turn could exacerbate housing and labour market issues in the local areas around Gatwick Airport.
- 10.2.36. YA, on behalf of the LePAs, stated [REP8-167] that the fundamental issue was that they did not consider the Applicant's methodology to be robust as it was based on a

theoretical academic approach from a 2010 Italian academic paper. This approach, in the absence of real data, was based on general assumptions about the number of air passengers in a given area, independent of whether an airport existed there, and assessed the relationship between this number and local employment.

- 10.2.37. YA, on behalf of the LePAs, stated [REP8-167] that whilst this may be reasonable in theory, the problem lay in the availability of real data in the UK, which the Applicant had declined to use despite it being pointed out to them in 2022. The UK data, such as CAA survey data, would allow for a more accurate estimation of passenger numbers in any given area and their relationship with all airports serving any given area.
- 10.2.38. Furthermore, for West Sussex, the Applicant's area of analysis for Gatwick Airport and for which data was then extrapolated to the SAA, only about 72% of the passenger demand from West Sussex used Gatwick Airport, with a substantial portion using Heathrow Airport, which is not projected to grow under the Applicant's forecast. Therefore, applying the uplift in traffic at Gatwick to the total passenger volume in West Sussex is inaccurate. As such, YA suspected that the methodology, if properly applied with real UK data, might understate local employment rather than overstate it [REP8-167].
- 10.2.39. YA submitted a further response to [REP7-077] at [REP8-126] which set out additional reasoning as to why the methodology was not considered robust in the UK context.
- 10.2.40. In summary [REP8-126], YA questioned why a theoretical approach to estimating air passenger potential rather than using real data to calibrate the model had been utilised. If CAA data had been used this would have enabled the identification of how many air passengers in any given area derived from each airport regardless of which airport they used. YA further stated that it could not be the case that using a theoretical estimate of air passenger potential could be preferred to using actual data.
- 10.2.41. Furthermore, YA stated [REP8-126] that the Applicant's methodology took no account of the actual local relationship between passenger demand and employment and assumed that airport catchment areas would remain static. If this was not the case it was the only airport that could grow which would necessarily give rise to it drawing from a wider area across the southeast of England meaning that its impacts would be more dispersed. In parallel, constraints at Heathrow meant that this would not be contributing equivalently to future economic growth. YA considered that these two factors needed to be properly disaggregated before the impact of growth at Gatwick could be fully assessed.
- 10.2.42. YA concluded [REP8-126] that it seemed likely that the local effects could be understated with consequential implications for the local housing market, particularly as impacts in West Sussex had been arbitrarily spread across the whole of the SAA. However, because of the opaqueness of the Applicant's methodology, they felt that they were in a position of not being able to fully understand the possible effect of the Proposed Development.
- 10.2.43. Following ISH9 – Socioeconomics [EV20-015 and EV20-17], further discussions were held between the Applicant and the JLAs regarding the catalytic employment benefits and its assessment methodology [AS-163]. Whilst the outstanding areas of difference between the parties were discussed, the Applicant confirmed that a fundamental difference remained regarding whether it was better to take the

Applicant's approach to seek to measure total employment changes and therefore to infer what the catalytic jobs would be or seek to measure catalytic jobs directly.

10.2.44. We also note that the New Economics Foundation (NEF) made a representation regarding the catalytic assessment methodology at [REP8-173]. Overall, NEF stated that they supported the Applicant's approach in respect of the catalytic employment assessment as it was a more academically robust and cautious approach than that suggested by YA. However, NEF did identify two issues with the Applicant's approach:

- that the displacement/ spillover impacts were not adequately described; and
- that the catalytic employment impacts rely on new business passengers.

10.2.45. NEF concluded [REP8-173] that whilst it accepted that there would be some likely employment growth resulting from the Proposed Development, the assessment approach used by the Applicant meant that there would be no certainty that there would be any net employment benefit at the national level.

10.2.46. This was because [REP8-173] by attributing catalytic growth to the Proposed Development it would rely on the use of new capacity by new business passengers created. NEF further stated that it was far from clear whether there would be any net additional business passenger growth at all arising from the Proposed Development. As such, if the inputs used by the Applicant in their assessment were wrong, regardless of the robustness of the internal workings of the model, the outputs would be incorrect.

10.2.47. The Applicant provided a response to the issues raised by NEF at [AS-163]. In terms of displacement, the Applicant commented that the assessment was undertaken at the West Sussex County level and displacement was reflected which would occur between the counties which make up the SAA.

10.2.48. In respect of the second issue raised by NEF, the Applicant stated [AS-163] that it agreed that in principle catalytic employment was driven partly by business passenger connectivity. However, in the approach used, the relationship derived is between air traffic and total employment and not between air traffic and specifically catalytic employment. This is considered by the Applicant to be an important point as in this case air traffic is not used as a proxy but is in fact the main driver for the impact the Applicant sought to measure. While catalytic employment may be specifically driven by air travel demand, the Applicant further stated that other types of employment related to airport activity are instead driven by the magnitude of airport activity i.e. the more traffic at the airport, the more employment. In the assessment, catalytic employment was derived as a residual when subtracting the separately calculated direct/ indirect /induced from the total local employment estimated, that is the impact of airport activity on local employment, which includes direct, indirect, induced, and catalytic employment.

ExA's Conclusion on the Catalytic Employment Assessment

10.2.49. We note that catalytic effects arise from the wider benefits that the government, consumers, employees, and other industries gain from the services the airport would provide. For example, increased flights and capacity that could provide links connecting UK residents and businesses to destinations and markets around the world.

10.2.50. We are mindful of the differences of opinions between the Applicant and the JLAs in respect of the assessment of catalytic employment effects. However, we are content

that the Applicant has adequately justified the methodology it has followed to assess catalytic effects. We are therefore satisfied that the approach adopted addresses the issues of displacement and causality.

Sensitivity Analysis

- 10.2.51. The Technical Note on the Future Baseline [REP1-047] contained details of the 'make up' of the future baseline forecast and outlined the four elements of growth that the Applicant considered would take the airport from 47 million passengers per annum (mppa) in 2019 to 67mppa in 2047. These were:
- Peak growth +2mppa;
 - Peak spreading +5mppa;
 - Aircraft size +9mppa; and
 - Load factor +4mppa.
- 10.2.52. Although specifically related to the future baseline, it was confirmed by the Applicant at ISH1 [EV6-001 to EV6-003] that the same principles of growth also applied to the Proposed Development, that in effect it included the baseline growth, plus that attainable from the specified use of the northern runway.
- 10.2.53. Further detail in regard of this issue is discussed in Chapter 4 of this Report. However, under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Rule 17) [PD-018], we requested that the JLAs confirmed their own future baseline figure or a range that they would be content with the Applicant assessing. Following the provision of this data, we requested that the Applicant undertake a sensitivity analysis based on the JLAs future baseline or if a range was provided, an analysis on the minimum and maximum of the range. This was requested to establish whether the sensitivity analysis would give rise to any change in the magnitude of impact considered within the Transport Assessment.
- 10.2.54. The JLAs provided this data at D4 [REP4-049] and a range of forecasts were provided:
- the York Low case, which proposed a 56.8mppa future baseline and a 74.8mppa with-Project case in 2047; and
 - the York High case proposed a 60.5mppa future baseline and an 80.2mppa with-Project case in 2047.
- 10.2.55. As requested, the Applicant provided a '*Future Baseline Sensitivity Analysis*' at [REP5-081]. In summary, the Applicant did not consider either of the York low or high case to be plausible but undertook the assessments on a without prejudice basis. It also provided its own further scenario to test which consisted of a 60.1mppa baseline and a 75.3mppa with-Project case in 2047.
- 10.2.56. Looking specifically at socioeconomics, the Applicant's assessment found that, in terms of the York scenarios, the forecasts would imply a slower initial increase in employment numbers in 2029 and 2032. However, direct employment figures for 2038 and 2047 would be higher than the figures in the Applicant's assessment contained in ES Chapter 17 [APP-042].
- 10.2.57. Again, in the Applicant's assessment, if the York figures were applied, a minor beneficial effect would be experienced, rather than a moderate beneficial effect resulting from the original assessment forecasts in 2029 and 2032. However, for the 2038 and 2047 assessment years the overall impact would remain as major beneficial, and the actual employment impacts would be higher.

- 10.2.58. In terms of the alternative scenario provided by the Applicant, this demonstrated that the incremental employment increase would be higher than both the York scenarios for 2029 and 2032, but this would be reversed for 2038 and 2047 where the Applicant's scenario would be lower than the York low scenario.
- 10.2.59. As an overall high-level summary, the Applicant reported that the assessments found that the differences in environmental effects between the scenarios would be relatively limited.

ExA's Conclusion on the Sensitivity Analysis

- 10.2.60. We note that we do not have access to relevant modelling tools or the detailed aviation forecasting expertise of the Applicant or YA on behalf of the JLAs. Nevertheless, and as discussed in detail in Chapter 4 of this Report, based on the evidence submitted and taking all the above into account, we are of the view that a likely outcome by 2047 would be in the region of 60 to 61mppa for the future baseline and 76 to 77mppa with the Proposed Development. This results in a delta of around 16 to 17mppa, larger than the Applicant's prediction of 13mppa.
- 10.2.61. We consider that with the Proposed Development in place, Gatwick Airport could reach 80.2mppa in due course, sometime after 2047. We are of the view that this difference would not be significant and concur with the Stansted decision conclusions in terms of speed of growth, that if ultimately it takes the airport longer than expected to reach anticipated levels of growth, then the corresponding effects would also take longer to materialise or may reduce due to advances in technology that might occur in the meantime. Further detail in respect of the Stanstead decision is discussed at paragraph 4.3.75 in Chapter 4 of this Report.

Effects on the Housing Market

- 10.2.62. The Applicant acknowledged at paragraph 17.9.16 of ES Chapter 17 [APP-042] that the introduction of a temporary construction workforce could lead to a temporary increase in the need for housing. This would most likely be in the form of temporary accommodation, as some construction workers may choose to live locally while working on the Proposed Development.
- 10.2.63. In terms of the assessment undertaken by the Applicant for the construction phase, to test the maximum housing impact, it was assumed that 80% of the workers would be home based and a maximum of 20% would be non-home based (NHB) workers, and they would require temporary accommodation (para 17.9.17 of [APP-042]).
- 10.2.64. In respect of the operational phase of the Proposed Development, the Applicant stated (para 17.9.65 of [APP-042]) that it was unlikely that additional pressure would be placed on the housing supply across the study area. Additionally, it was also noted that more housing would be unlikely to be required to increase the labour supply in response to the operational employment generated by the Proposed Development.
- 10.2.65. In summary, the assessment reported that there would be no significant adverse effects in respect of housing supply, including the provision of temporary accommodation [APP-042]. As such, no specific socioeconomic mitigation was considered necessary by the Applicant.

Construction Phase

- 10.2.66. Paragraph 8.1.9 of ES Appendix 17.9.3 [APP-201] concluded that the construction workforce would peak at approximately 1,400 workers in February 2027, of which it was estimated that up to 20% may be NHB and therefore would require temporary accommodation, with the vast majority being in Crawley and Reigate and Banstead areas. The Applicant further stated that the workers would be accommodated in several ways, depending on their role, and therefore income available to spend on housing, and duration working on the Proposed Development would be variable.
- 10.2.67. Paragraph 8.1.10 of Appendix 17.9.3 [APP-201] stated that the demand for temporary accommodation during the construction phase from NHB workers would be unlikely to give rise to significant housing effects as the number of NHB workers, even at its peak, would represent a very small proportion of the potential sources of supply which might meet this demand. The amount of affordable housing need associated with the Proposed Development was also considered unlikely to place any further upward pressure on affordable housing delivery in the future beyond pressures that already existed.
- 10.2.68. Despite this, concern was raised in respect of the potential effects of the Proposed Development on housing by the JLAs and Communities Against Gatwick Noise and Emissions (CAGNE).
- 10.2.69. In respect of CAGNE's concerns, it produced a report regarding job creation and the housing market [REP1-149] which stated that the Applicant's assessment of both housing and population relied on old data sources. As such, CAGNE requested that up-to-date information should be used given that it would impact on both labour supply and housing conclusions.
- 10.2.70. In addition, at [REP1-137] CAGNE commented that the jobs offered would not enable workers to afford to live locally without the assistance of local authorities and would require affordable housing, of which there is a definite lack in areas surrounding the Airport.
- 10.2.71. Similar concerns in respect of the use of out-of-date data sources in respect of the assessment was also detailed in the JWSLAs LIR [REP1-068] and JSCs LIR [REP1-097].
- 10.2.72. As discussed earlier within this Chapter, the issue of the age of data used was also commented on during ISH3 – Socioeconomics [EV8-001 and EV8-002]. We asked the Applicant whether any further up to date data was available and if so, whether this would have any implications for the results of the socioeconomic assessments.
- 10.2.73. In response the Applicant confirmed [REP1-058] that it considered the age of the baseline data and the range of sources used to be a robust and proportionate starting point. We did however request that the Applicant reviewed the implications of using 2021 Census data for the assessment of housing need during construction as opposed to the 2011 data which was used in the assessment [EV8-005].
- 10.2.74. At [REP2-005] the Applicant confirmed that a review of the 2021 Census data had been undertaken and provided equivalent 2021 data. In conclusion, it stated that overall, the impacts and conclusions of the socioeconomics assessment would be unchanged, if not strengthened, if the 2021 Census data was considered in place of the previous 2011 data.

- 10.2.75. In respect of temporary accommodation, the Applicant also stated that the 2021 Census data confirmed the demand for temporary accommodation during the construction phase of the Proposed Development from NHB workers would not be likely to give rise to significant housing demands [REP2-005]. This was because the number of NHB workers, even at its peak, would represent a very small proportion of the potential sources of supply available to meet the demand.
- 10.2.76. Row 2.19.1.5a of the Statement of Common Ground (SoCG) with CBC [REP9-066] confirmed that it considered that the matter in respect of outdated data sources for economic activity to be resolved. However, at row 2.19.1.5a, CBC confirmed that they remained concerned that the 2021 Census data reflected temporary and unprecedented changes to the housing market arising from the Covid pandemic, when there was a greater than normal availability of private rented sector (PRS) accommodation, which would represent a deviation from long-term trends.
- 10.2.77. As such, CBC contended [REP9-066] that the supply of available bedspaces measured at the 2021 Census would be higher than in today's more normal operating market if measured again. This was stated as being reflected in CBC's own experience, where there had been a significant worsening in the availability of short and medium-term accommodation in the years since the 2021 Census was undertaken.
- 10.2.78. Alongside of the above issue regarding the age of the data sources used in the assessment, the following housing related concerns were also identified:
- any increased demand for PRS housing and hotels arising from the construction phase of the Proposed Development could make the homelessness position worse (JWSLAs LIR [REP1-068]);
 - CBC was already unable to meet its affordable housing need in the absence of the Proposed Development, and as such the JWSLAs disagreed with the Applicant's assessment that there was unlikely to be impacts on affordable housing beyond what was already planned for (JWSLAs LIR [REP1-068]);
 - the conclusion that the Proposed Development was unlikely to have any impact on affordable housing demand beyond what is planned for did not appear well founded (JSCs LIR [REP1-097]); and
 - a Housing Fund is requested to address impacts on availability of affordable housing in particular (JSCs LIR [REP1-097] and JWSLAs LIR [REP1-068]).
- 10.2.79. In its response to the LIRs [REP3-078], the Applicant considered that within ES Appendix 17.9.3 [APP-201] the issue of affordable housing had been sufficiently addressed. It also stated that the potential tenure demands associated with the Proposed Development would be unlikely to have any impact on affordable housing demands beyond what had already been planned for. On that basis, the Applicant commented that no further mitigation measures were necessary.
- 10.2.80. Regarding the PRS, the Applicant responded [REP3-078] stating that it should be noted that the PRS represented just one source of potential supply which may be used by temporary construction workers. In *'The Applicant's Response to Local Impact Reports Appendix D – Construction Labour Market and Accommodation Impacts'* [REP3-082], the Applicant's previously established position was reiterated insofar as that the temporary construction workforce was not expected to place significant additional pressure on the demand for PRS accommodation. As such, the duration of construction workers' time on site, and hence the length of stay of NHB workers in the local area, would not create a surge in demand.

- 10.2.81. In addition to the above concerns, during ISH3 – Socioeconomics [EV8-001 and EV8-002], CBC confirmed a recent declaration of a ‘housing emergency’ had been made by the authority [REP1-213]. The LePAs confirmed that CBC had a significant and rising temporary accommodation and homelessness problem. It was not suggested by the LePAs that NHB workers would directly add to this problem in terms of CBC’s responsibility to house them. However, it was considered that there would clearly be implications if NHB workers contributed to the demand for short-term rented accommodation including bed and breakfasts, hotels and single room lets in the local area, and this could foreseeably impact the cost of existing temporary short-term accommodation by increasing demand.
- 10.2.82. At [REP2-005], the Applicant confirmed that it did not consider that the housing emergency declared by CBC had a direct bearing on the nature of the assessment of population and housing effects. This was because several of the issues that had contributed to CBC’s decision to declare a housing emergency were not considered to be relevant to the submitted application.
- 10.2.83. The Applicant concluded that it did not consider that the relatively limited number of NHB construction workers who were likely to reside in the Crawley Borough would materially impact CBC’s position in relation to the declaration of a housing emergency, if CBC still maintained its housing emergency up until commencement of construction of the Proposed Development. Any increase in housing demand in the area attributable to temporary construction workers would be negligible and transitory in nature and would not impact the demand for temporary, emergency accommodation.
- 10.2.84. In respect of affordable housing concerns, at ExQ1.SE.1.15 [PD-012], we asked the LePAs to provide further detail in respect of the need for additional funding. The LePAs confirmed [REP3-135] that whilst it was not the role of the Applicant to resolve problems with the delivery of affordable housing, it felt that the Proposed Development would put additional pressure on affordable housing demand. The LePAs further stated that it therefore followed that the Applicant should be taking some action to mitigate the additional pressure the Proposed Development would put on demand for affordable housing.
- 10.2.85. In terms of mitigation, the LePAs suggested a Housing Mitigation Fund [REP3-135], which could be used to create more temporary accommodation in the adjacent area to the Proposed Development, both by working with and incentivising Houses in Multiple Occupation and PRS operators to expand their rental stock. Also, funding could be used to expand temporary accommodation stock, and this could free-up bed and breakfasts and hotels that were being used as emergency accommodation and these would then be available to go back to the market. Alternatively, the Applicant could directly negotiate block bookings with existing hotels and/ or build one of the airport hotels early for construction workforce, and then later use for aircrew.
- 10.2.86. In response to this, the Applicant [REP4-031] stated that it did not consider there to be any justification for a Housing Mitigation Fund, in either the construction or operational phases. Furthermore, the Applicant considered that the Proposed Development would only increase demand for affordable housing if it attracted significant numbers of additional people to the area who needed, and were eligible for, such housing.
- 10.2.87. The Applicant confirmed that CBC’s eligibility for affordable housing was a five-year connection to the area and it would be unlikely that potential construction workers in

need of affordable housing would migrate to the area for those jobs as they would not be eligible for affordable housing for a further five years. The Applicant considered it would be more likely that the Proposed Development would provide jobs for people who were already living locally, including those in affordable housing [REP4-031].

- 10.2.88. In advance of ISH9 - Mitigation, we issued an agenda for the hearings [EV20-001] and this contained a table of our potential amendments to Schedule 2 (Requirements) of the Applicant's draft Development Consent Order (DCO) which was submitted into the Examination at D7 [REP7-005]. Included in the table was drafting for a new Requirement for a Housing Fund. We considered the inclusion of the draft Requirement necessary given the concerns raised by the LePAs in respect of their issues regarding the lack of affordable, temporary, and emergency housing.
- 10.2.89. During ISH9 – Mitigation [EV20-003 and EV20-005], the LePAs commented that [REP8-165] the draft wording of the Requirement would require further elaboration to ensure that all parties could understand the content and expectations of the plan to be submitted for approval. The LePAs suggested that the Requirement would need to specify the content of the required housing fund plan to ensure its deliverability to adequately mitigate the pressures on affordable and temporary housing, and it would also need to address timescale issues.
- 10.2.90. The Applicant also commented on the draft wording during ISH9 - Mitigation [REP8-106], stating that any discussion on the wording would be entirely academic as it did not accept the rationale for the housing fund. The Applicant also noted as a general observation that the wording as drafted did not provide any details regarding a financial limit or quantification of a sum, nor guidance of how a figure would need to be reached.

Homelessness Prevention Fund

- 10.2.91. In its Closing Submissions [REP9-112] the Applicant maintained its position that as no significant adverse impacts were identified, at either the construction or operational stages, no specific socioeconomic mitigation was identified as being necessary within ES Chapter 17 [APP-042]. However, the Applicant submitted an updated version of the s106 agreement which included a new schedule, Schedule 8 Homelessness Prevention Fund [REP9-102].
- 10.2.92. We issued a Rule 17 letter [PD-029] which requested the Applicant provide a justification for the Fund and to explain why this was not included as part of the original submitted application. In response [REP9-122], the Applicant confirmed that the Fund was aimed at providing housing support if needed where there was an insufficient supply of short term and nightly paid accommodation for those on the waiting list for affordable housing and on which the NHB workers associated with the Proposed Development could increase demand.
- 10.2.93. Whilst the Applicant acknowledged that there was some uncertainty in terms of the Census data it remained confident in the assessment and that impacts would be unlikely. However, it did recognise the change in circumstances with respect to homelessness that had occurred since the start of the Examination [REP9-102].
- 10.2.94. The Fund would be set at a maximum of £1 million and would only be used if evidence of increased homelessness because of additional demand from NHB construction workers was provided. The Fund would only be available during the construction phase as agreement had been reached between the JLAs and the

Applicant that no housing impact would occur during the operational phase [REP9-066]. Also, the JLAs confirmed that the funding offered would be sufficient to address their concerns regarding housing raised during the Examination [REP9-123].

10.2.95. The Applicant considered that the Fund would provide a safety net that should impacts arise, the JLAs would have access to funding to avoid incurring additional costs. With this Fund in place, CBC accepted that the potential issues arising from the lack of uncertainty in respect of housing would be adequately managed [REP9-066].

10.2.96. In respect of the Fund, CAGNE, in its Closing Statement [REP9-223], stated that the provision of a housing fund would not resolve the fundamental problem that there is a lack of land available to build on in Crawley.

Operational Phase

10.2.97. In respect of the operational phase of the Proposed Development, as detailed above, in its SoCG [REP9-066] CBC confirmed that it agreed that any housing impacts experienced during the operational phase would not result in any significant adverse effects and no mitigation was necessary.

ExA's Conclusion on Effects on the Housing Market

10.2.98. We are satisfied that the Applicant has adequately addressed the concerns raised in respect of the use of out-of-date data and that the additional data submitted into the Examination confirmed that the impacts and conclusions of the socioeconomics assessment would be unchanged based on the 2021 Census data.

10.2.99. Turning to the issue of the potential effects of temporary construction workers on the availability of both affordable housing and PRS accommodation, we are satisfied that, given the very small proportion of NHB workers who would require accommodation, significant adverse effects would not be experienced as a result.

10.2.100. Nevertheless, we are also mindful of the housing emergency faced by CBC. As such we have considered the Homelessness Prevention Fund contained within the s106 agreement in the context of both the policy and legal tests relevant to planning obligations and the housing issues currently being experienced by CBC. We also note that the local authorities who were signatories to the s106 agreement have agreed to the monies proposed.

10.2.101. We are therefore satisfied that the provision of the Homelessness Prevention Scheme and associated funding could provide a mechanism for the mitigation of potential housing effects. In addition, given the agreement reached between both the Applicant and the local authorities, we are satisfied that the use of a s106 agreement is an appropriate mechanism rather than that of a Requirement.

10.2.102. Furthermore, we consider that the provision of the Homelessness Prevention Scheme complies with the objectives within the ANPS, insofar as the Applicant has identified an appropriate measure to compensate for potential adverse effects.

Section 106 Agreement – Schedule 5: Employment, Skills and Business Strategy and Appendix 6: Draft ESBS Implementation Plan

10.2.103. As part of the suite of application documents, an ESBS [APP-198] was submitted into the Examination. The executive summary confirmed that the purpose of the

ESBS was to set out “*how Gatwick Airport Limited (GAL) would maximise economic benefits for communities and businesses generated by the proposal to make best use of Gatwick’s existing runways and infrastructure, referred to within this Strategy as ‘the Project’.* GAL’s underpinning approach would be to create the conditions for:

- *sustainable employment, skills development and career progression for communities; and*
- *enhancements to the productivity and growth of businesses”.*

- 10.2.104. Schedule 5 of the s106 agreement [REP10-019] related to Employment, Skills and Business, with Appendix 5 detailing the ESBS and Appendix 6 included a draft Implementation Plan.
- 10.2.105. Within the ESBS, the Applicant set out six activity themes [REP10-019], which were proposed to cover both the construction and operational phases of the Proposed Development. They were listed as:
- inspire and motivate;
 - construction;
 - employment and skills (non-construction);
 - adding value through procurement;
 - innovation; and
 - regional promotion.
- 10.2.106. In its Closing Submissions [REP9-112], the Applicant confirmed that the ESBS would “*enhance the beneficial employment and labour market impacts of the Project that are expected to result from both the construction and operational periods. In addition, they would open up a wider range of opportunities than those that would be derived exclusively from the Project.*”
- 10.2.107. The delivery of the proposed measures would be through ESBS Implementation Plans which would be approved by an ESBS Steering Group, which would consist of local authorities and relevant stakeholders. Section 5 of the ESBS set out the information that must be included in each ESBS Implementation Plan and they are to be in general accordance with the ESBS [REP10-019].
- 10.2.108. In addition to the strategy the Applicant proposed an accompanying ESBS fund of £20 million which aimed to enhance the benefits outlined in the ESBS and to also increase the significance of the effects through support for local businesses and residents [REP9-112]. It was proposed to secure the ESBS and associated funding through the s106 agreement [REP10-019].
- 10.2.109. During the Examination, in respect of the ESBS, the following three main issues were examined:
- how the ESBS Implementation Plan was to be secured;
 - the content of the ESBS and Implementation Plan;
 - how the ESBS would be beneficial in respect of health and wellbeing; and
 - justification for the size of the fund.

Securing Mechanism

- 10.2.110. In respect of the proposed securing mechanism, in the ESCC LIR [REP1-070], it was suggested that should the Proposed Development be granted consent, then the ESBS Implementation Plan should be secured via a Requirement.

- 10.2.111. The issue of the securing mechanism was discussed throughout the Examination, with questions being asked at ISH 3 – Socioeconomics [EV8-001 and EV8-002], ISH9 – Mitigation [EV20-003 and EV20-005], ISH9 – Socioeconomics [EV20-015 and EV20-017], ExQ1.SE.1.6 [PD-012] and ExQ2.SE.2.8 and SE.2.9 [PD-021].
- 10.2.112. During ISH3 [EV8-001 and EV8-002], the Applicant was asked to comment on whether the ESBS should be secured by a Requirement, rather than via a s106 agreement. In response the Applicant [REP1-058] stated that it considered ESBS details would be best dealt with via a s106 agreement as a financial contribution was proposed and in connection with the contribution there would be detailed implementation mechanisms, all of which would be better set out in the fuller text of a s106 agreement. The Applicant further stated that it understood that there was no disagreement with the local authorities on this approach at this stage. In response [REP3-078] to the ESCC LIR the Applicant again stated that it was appropriate for the ESBS to remain secured as a s106 agreement obligation rather than as a Requirement.
- 10.2.113. In response to ExQ2.SE.2.8 [REP7-091] the Applicant provided further detail as to why it considered a s106 agreement was an appropriate securing mechanism. It explained that structure of the ESBS Implementation Plan had been set up to involve numerous third parties, many of whom who would be in the public sector, in delivering the objectives of the ESBS. Through this approach the Applicant would not have control over the activities of these parties as it will have its own contractors. The Applicant and the ESBS Steering Group would agree key performance indicators for each third-party delivering activities under the ESBS, but it would be inappropriate for the Applicant to hold these parties to the same standard that it would require of its contractors. If the ESBS Implementation Plan was secured by a Requirement, the Applicant would assume the responsibility for the delivery of all the activities with the associated criminal liability for breach. As such, the risk to the Applicant of involving these third parties would be much higher.
- 10.2.114. The Applicant further stated [REP7-091] that if the ESBS and Implementation Plan was secured via s106 agreement obligation, whilst it would still be responsible for the delivery, it would be able to work more dynamically with the stakeholders and third parties to ensure effective delivery. Additionally, as the associated funding would be secured through the s106 agreement, the Applicant considered that this would allow for active discussions and collaboration in a way that a formal submission and approval process via a Requirement would not. Were the ESBS Implementation Plan to be secured through a Requirement the Applicant noted that the ring-fencing of the fund would be secured through compliance with the ESBS itself which would make it less visible to all parties. In conclusion, the Applicant considered the use of a Requirement would not be conducive to collaborative working and it would in turn hamper the delivery of the ESBS.
- 10.2.115. In response to comments made by KCC in its PADSS (row 17 of [REP5-096]), we asked the Applicant at ExQ2.SE.2.8 [PD-021] to provide draft wording for a Requirement to secure the ESBS and Implementation Plan. At [REP7-091] the Applicant provided such wording but reiterated that it considered it preferable that the ESBS and Implementation Plan would be secured via a s106 agreement. Additionally, should a Requirement be used as the securing mechanism the Applicant also noted that this would also require the ESBS and draft Implementation Plan to be significantly restructured.
- 10.2.116. In advance of ISH9 – Mitigation [EV20-003 and EV20-005], we issued an agenda for the hearings [EV20-001] and this also contained a table of our potential

amendments to Schedule 2 (Requirements) of the Applicant's draft DCO which was submitted into the Examination at D7 [REP7-005]. Included in the table was drafting for a new Requirement in relation to the 'Employment, Skills and Business Implementation Plan', the wording of which was based loosely on the drafting provided by the Applicant at [REP7-005], although some small amendments had been made.

- 10.2.117. During ISH9 – Mitigation [EV20-003 and EV20-005] we invited comments on the drafting of the Requirement. The Applicant [REP8-106] advised that significant progress had been made in respect of progressing the s106 agreement with the relevant local authorities.
- 10.2.118. The LePAs [REP8-165] stated that the proposed wording would meet the relevant tests in the National Planning Policy Framework and, to the extent relevant, in the ANPS for the imposition of Requirements. Nevertheless, they identified that there were circumstances where certain matters might be dealt with more flexibly or efficiently through a s106 agreement rather than as a Requirement. However, they stated that so long as the resolution of the s106 matters remained uncertain, they would welcome the drafting provided by the ExA.
- 10.2.119. Despite these remaining concerns, at D9 in the 'Joint Position Statement between Gatwick Airport Limited and the Joint Local Authorities' [REP9-123], it was concluded that in respect of Schedule 5 to the s106 agreement that "*For the avoidance of doubt, all parties agree that provision for the ESBS is most appropriately contained within this Section 106 Agreement, rather than separately through a requirement to the draft DCO*".
- 10.2.120. We also note that at D10, the Applicant submitted a final s106 agreement into the Examination, which had been signed by all relevant parties [REP10-019].

Content

- 10.2.121. During ISH3 – Socioeconomics [EV8-001 and EV8-002], the LePAs raised several concerns in respect of the ESBS. Specifically, it was not considered that the initial iteration of the ESBS provided adequate information on the baseline of the local area to inform the strategy. Also, it was not evident whether the Applicant had conducted an adequate review of the current baseline or arrangements for skills and training within local areas and therefore may not have picked up on existing skills gaps. This issue, relating to the scope and content of the ESBS, is something which the LePAs considered required further work [REP1-213].
- 10.2.122. Additionally, the LePAs raised concern [REP1-213] regarding the absence of a coherent and fully formed Implementation Plan. This was considered necessary so that the final version could be something which would be capable of being implemented at an early stage, in line with the delivery of the Proposed Development, should it be consented. This was deemed particularly important so to ensure that, when the Applicant was dealing with supply chains and skills bases, benefits could be secured by local labour force and local businesses. To ensure that the ESBS would secure the delivery of these benefits from the very outset of the Proposed Development, the LePAs requested that the implementation strategy was in operation at a very early stage. The absence of such a strategy was seen to be a cause for concern.
- 10.2.123. Similar concerns were raised in LIRs and SoCG in respect of the content of the ESBS. Overall, the concerns related to the following issues:

- the lack of detail regarding specific initiatives tailored to local need, targets, arrangements for deliverables and monitoring and no information to identify how the strategy would address current issues affecting the different local authorities (JWSLAs LIR [REP1-068], ESCC LIR [REP1-070] and JSCs LIR [REP1-097]);
- the ESBS should provide more detail on potential tailored initiatives that would specifically align with and support the communities within the local authorities in close proximity to the airport (JSCs LIR [REP1-097]);
- the ESBS failed to provide a baseline analysis of existing education and training providers. This would be required in order to identify what additional provision would be required (JWSLAs LIR [REP1-068] and JSCs LIR [REP1-097]);
- a need to set clear and measurable targets for engagement around apprenticeships, work experience and training schemes (JWSLAs LIR [REP1-068]); and
- a shortage of skills, rather than a shortage of workers, was identified. The skills shortage needs to be addressed through the ESBS (CBC SoCG [REP9-066]).

10.2.124. In response to the above matters, at [REP3-078], the Applicant confirmed that a draft Implementation Plan had been shared with ESCC and that it was continuing to work with ESCC and other local authorities to develop the draft. The draft would include the tailoring of delivery to local needs and would include specific measures such as work with career hubs and benefits would therefore be locally targeted.

10.2.125. The Applicant also confirmed that workshops were planned with local authorities and key stakeholders to continue to develop the draft Implementation Plan and would focus on issues such as monitoring, evaluation, milestones, and targets [REP3-078]. Confirmation was also provided that the proposed ESBS Fund would be allocated through the Implementation Plan, which would be approved by the ESBS Steering Group. The draft Implementation Plan was submitted into the Examination at [REP3-069].

10.2.126. During ISH9 – Socioeconomics [EV20-015 and EV20-017], we asked the Applicant and the LePAs to provide an update in respect of progress of the ESBS and draft Implementation Plan. The Applicant confirmed that [REP8-109] they had recently shared thematic plans with the LePAs and these were currently subject to further review and discussions. It was also confirmed that the approval process for the Implementation Plan was under review and subject to further discussions.

10.2.127. The LePAs acknowledged that discussions were ongoing [REP8-165], however they considered that the current Implementation Plan was seen as being an outline and they had requested a more detailed Implementation Plan. Whilst it was accepted that the Applicant had commented that this information would be provided at D8, the LePAs stated that the plan would need to define the following:

- which activities would sit outside of the ESBS fund, and which would sit within it;
- to specify the fund's intended coverage period;
- to provide clarity on spatial areas;
- to ensure alignment with thematic plans;
- to provide information on the need for specific beneficiaries, potential activities, and net additional impacts;
- how funding would be secured and how it would be spent; and
- how hard-to-reach groups would be engaged.

10.2.128. Despite these areas of concern, we note that several of the local authorities, in their PADSS [REP9-136], [REP9-166] and [REP9-172], concluded that the content and role of the ESBS and Implementation Plan was satisfactory. Accordingly, in the Joint Position Statement between Gatwick Airport Limited and the Joint Local Authorities

[REP9-123], it was stated that in respect of Schedule 5 to the s106 agreement *“Through the agreement of such terms, the parties agree that all issues raised/submissions made in relation to Employment, Skills and Business elements of the socio-economics topic area during the examination have been adequately addressed”*.

Health and Wellbeing

- 10.2.129. At paragraph 18.8.408 of ES Chapter 18 [APP-043] the Applicant confirmed that the ESBS would assist in reducing adverse population health effects for vulnerable groups, particularly in areas such as Crawley where a baseline of poorer health outcomes was identified. Through the ESBS a commitment would be made to advertise and interview for jobs within the LSA and specifically promote opportunities for employment through channels accessible to vulnerable groups.
- 10.2.130. Paragraph 18.8.410 of ES Chapter 18 [APP-043] further stated that with the ESBS measures in place, inequalities for vulnerable groups would be improved. With a sustained intervention targeting those with existing disadvantages in the LSA, particularly young adults who were not in education, employment, or training and those in long-term unemployment, the assessment concluded that in 2032, 2038 and 2047 the residual operational benefits would be significant beneficial.

Funding

- 10.2.131. The initial level of funding proposed by the Applicant regarding the ESBS was set at £14 million [REP2-004]. This figure was initially questioned in the JWSLAs LIR [REP1-068] and JSCs LIR [REP1-097] in respect of how the figure had been arrived at, how it related to the ESBS and how the Fund related to the draft Implementation Plan.
- 10.2.132. In response [REP3-078], the Applicant confirmed that the Fund would be allocated through the Implementation Plans which would be approved by the ESBS Steering Group. In terms of the £14 million figure, the Applicant responded confirming that a response had been provided to the local authorities and that discussions were on-going.
- 10.2.133. During ISH9 - Socioeconomics [EV20-015 and EV20-017] we asked the Applicant to provide justification for the figures for the financial contributions in the draft s106 agreement schedules and additional information was provided by the Applicant at [REP8-111].
- 10.2.134. However, the detail provided in [REP8-111] was minimal, and only confirmed that the £14 million was required to deliver significant activities across the region to support the delivery of the objectives set out in the ESBS. However, the Applicant confirmed that the updated s106 agreement Explanatory Memorandum to be submitted at D9 would include justification for the final values of the financial contributions.
- 10.2.135. At D9 the ‘*Section 106 Agreement – Explanatory Memorandum*’ [REP9-106] was submitted into the Examination. However, this did not provide a justification for the final financial contributions, other than stating that the value of the fund was based on agreement by the Applicant and the JLAs about the sums required to maximise the benefits of the Proposed Development in accordance with the ESBS.
- 10.2.136. It should also be noted that at D9 [REP9-102], the ESBS Fund increased from £14 million to £20 million with no justification for the £6 million increase being provided.

ExA's Conclusion on the Section 106 Agreement – Schedule 5: Employment, Skills and Business Strategy and Appendix 6: Draft ESBS Implementation Plan

- 10.2.137. As detailed above, the Applicant has demonstrated that there would be significant employment opportunities created by the Proposed Development. We note that the Applicant has been working with the local authorities and regional stakeholders to maximise the benefits of the opportunities that would be created.
- 10.2.138. As such, we consider that the initiatives which would be secured by the ESBS and Implementation Plan would assist in maximising the employment and skills development opportunities created by the Proposed Development.
- 10.2.139. We note that the availability of employment lies at the heart of inclusive economic growth and the alleviation of poverty. It is also widely accepted that good quality employment can have positive influences on an individual's overall health and wellbeing.
- 10.2.140. As such, with specific regard to health implications, we are content that the initiatives set out in section 8.6 of the ESBS at Appendix 5 of the s106 agreement [REP10-019] would both promote and increase health equity by enabling greater accessibility to employment for local vulnerable groups. The measures included within the ESBS would, through training, employment and procurement initiatives, aid in removing barriers to employment.
- 10.2.141. Furthermore, we consider that the provision of the ESBS complies with objectives in the ANPS, insofar as the Applicant has identified an appropriate measure to compensate for potential adverse health effects.
- 10.2.142. We are therefore satisfied that the provision of the ESBS, Implementation Plan and associated funding could provide a mechanism to maximise economic benefits for communities and businesses. We are satisfied that, given the amendments and additional provisions made to the ESBS and Implementation Plan by the Applicant, that it could provide suitable conditions to deliver sustainable employment, skills development and career progression for communities and enhancements in the productivity and growth of business.
- 10.2.143. Given the agreement reached between both the Applicant and the JLAs, we are satisfied that the use of a s106 agreement is an appropriate mechanism rather than that of a Requirement.

Gatwick Community Fund

- 10.2.144. The purpose of the proposed Gatwick Community Fund (GCF) was stated by the Applicant [REP9-112] as being to *"mitigate the intangible and residual impacts of the Proposed Development so as to improve the quality of life of those impacted by the operation of Gatwick Airport including the advancement, provision and/or relief of their economic, environmental, social, health, educational, employment and financial circumstances"*.
- 10.2.145. The GCF would be secured via Schedule 4 of the s106 agreement [REP10-019] and would be administered through the existing Community Foundations operating in Sussex, Surrey, and Kent. To achieve this, the total fund would comprise three distinct funds with governance through a decision-making panel comprising representatives of GAL, the Community Foundations and the relevant county authority.

- 10.2.146. During the Examination concerns were raised, mainly by the LePAs, in respect of the justification for the level of proposed funding. Such concerns were highlighted at the beginning of the Examination in the below LIRs:
- JWSLAs LIR [REP1-068] at paragraph 18.98 concern was raised in respect of whether the size of the community compensation fund would be proportionate to the environmental harm caused by expansion of the airport; and
 - JSCs LIR [REP1-097] at paragraph 1.12 the local authorities commented that major changes would be required to the scope and scale of payments, including to the Community Fund, considering the significant impacts of growth of the Airport as proposed by the Applicant.
- 10.2.147. The issue of the proposed GCF was also discussed at ISH3 - Socioeconomics [EV8-001 and EV8-002]. As with comments made in the LIRs, the LePAs [REP1-213] commented that whilst discussions between the parties were on-going, concern remained that the proposed approach would be inadequate in terms of resources and that the Applicant's suggestion to 'scale up existing arrangements' would not be appropriate to deal with the residual impacts of the Proposed Development.
- 10.2.148. Further to these on-going concerns at ExQ1. DCO.5.3 [PD-012] we asked CBC, HDC, MSDC and WSCC to detail what level of funding was identified by the Airports Commission and how this was comparable to the sums in the proposed GCF. In response, the LePAs [REP3-135] identified that in comparison to the figures suggested by the Airports Commission, the level of funding proposed by the Applicant was significantly less. Comparison was also drawn to the proposed Luton Airport Community Fund obligation and again, the proposed funding suggested by the Applicant would also fall short of the proposed funding offered by the Applicant for the London Luton Airport Expansion DCO application.
- 10.2.149. The Applicant responded to the concerns in respect of funding throughout the Examination. In response to the comments made in the LIRs [REP3-078], the Applicant confirmed that the level of funding would be linked to passenger numbers to ensure funding is scaled according to passenger volumes and is therefore directly linked to the impacts of airport growth. The size of the proposed GCF was considered to be fairly and reasonably related in scale and kind to the Proposed Development.
- 10.2.150. In particular, the Applicant noted [REP3-078], that the incremental increase in contribution from 50mppa upwards would reflect the increase in revenue that would be received as a result of the increased number of passengers and therefore the Applicant considered it appropriate to increase the contributions towards the community accordingly.
- 10.2.151. Turning to ExQ1.DCO.5.3, in response the Applicant [REP4-031] noted that the Airports Commission Final Report related to an entirely different development proposal in comparison to the Proposed Development. The Applicant maintained that it had proposed a figure which, when all other mitigation was considered, represented an amount which it believed was proportionate to the environmental impacts and would address any residual and intangible effects. The level of funding had also been designed to increase in steps which would reflect the trajectory of growth and any associated effects.
- 10.2.152. At the close of the Examination, in the Applicant's Closing Submission [REP9-112], it was stated that the proposed GCF reflected a significant amount of money being

made available to the local community. Additionally, that the GCF was proportionate to the number of passengers and further detail in respect of the level of funding was detailed in 'Appendix 1 of the Section 106 Agreement – Explanatory Memorandum' [REP9-106].

10.2.153. Appendix 1 of [REP9-106] also provided a justification for the amendment to the level of funding proposed. In summary, the Applicant confirmed that following feedback from the JLAs, rather than having a fixed payment for each passenger number bracket, it had committed to making a contribution on the basis of 2p per passenger above 50mppa. This approach reflected the approach outlined by the Airports Commission. The Applicant also confirmed its commitment to increase the proposed GCF by the value of any fines from exceeding the specified noise thresholds via any noise supplements received by GAL.

10.2.154. At [REP9-112], the Applicant also referenced the Joint Position Statement with the JLAs [REP9-123], referring to paragraph 2.1.7 which stated "...the parties agree that all issues raised/submissions made in relation to the terms of the Community Fund during the examination have been adequately addressed. For the avoidance of doubt, all parties agree that provision for the Community Fund is most appropriately contained within this Section 106 Agreement, rather than separately through a requirement to the draft DCO".

ExA's Conclusion on the Gatwick Community Fund

10.2.155. We have reviewed the key principles of the proposed GCF and consider them to be appropriate. The proposed governance arrangements would allow for any affected communities to be part of the process in delivering the benefits that would come from the fund and this would respond directly to the effects of the development over a prolonged period.

10.2.156. In line with paragraph 5.247 of the ANPS, we are satisfied that the proposed GCF is a proportionate response to the potential community effects identified in these circumstances.

10.3. ExA's CONCLUSION ON SOCIOECONOMICS

10.3.1. In terms of the socioeconomic assessment, we note that there is not a standardised methodology which specifies the detail required to prepare socioeconomic assessments, or that provides defined standards or thresholds for assessing the significance of socioeconomic effects.

10.3.2. Whilst accepting that uncertainties exist within the socioeconomic assessment, we are satisfied that the Proposed Development would provide significant beneficial effects in terms of the availability of labour, due to the airport attracting additional staff, and direct, indirect, and induced employment. Gatwick Airport is already an important employer in the area and currently supports a significant level of local employment and the potential economic benefits from the Proposed Development, if realised, would undoubtedly result in both local and national economic growth.

10.3.3. As such, we consider that the Applicant has adequately assessed the effects of the Proposed Development in line with both paragraph 4.4 and 4.5 of the ANPS and has provided sufficient evidence to support its conclusions on those effects.

10.3.4. We are satisfied that the Proposed Development would support economic development in both the local area and nationally. Such effects would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for

the future baseline and the Proposed Development, as found in Chapter 4 of this Report.

- 10.3.5. In conclusion, we find that the Proposed Development in respect of socioeconomics, would accord with the ANPS and other relevant legislation and policy requirements.
- 10.3.6. Accordingly, we ascribe moderate weight to matters relating to socioeconomics in favour of the Order being made.

11. WATER ENVIRONMENT

11.1. INTRODUCTION

11.1.1. This Chapter considers the effects of the Proposed Development in relation to the water environment.

11.2. THE APPLICATION

11.2.1. The Applicant's assessment of the water environment was primarily contained within the Environmental Statement (ES) Chapter 11 [APP-036]. For the purposes of this assessment, the water environment constituted:

- Surface water (comprising geomorphology and water quality);
- Groundwater;
- Flood risk (including surface water drainage); and
- Water infrastructure (comprising wastewater and water supply).

11.2.2. Chapter 12 was supported by the following documents:

- Water Environment Figures [APP-057];
- Appendix 11.2.1 - Summary of Local Planning Policy [APP-140];
- Appendix 11.3.1 - Summary of Stakeholder Scoping Responses [APP-141];
- Appendix 11.9.1 - Geomorphology Assessment [REP5-023];
- Appendix 11.9.2 - Water Framework Directive Compliance Assessment (WFDCA) [APP-143];
- Appendix 11.9.3 - Water Quality "Highways England Water Risk Assessment Tool" (HEWRAT) Assessment [REP8-078];
- Appendix 11.9.4 - Water Quality De-Icer Impact Assessment [APP-145];
- Appendix 11.9.5 - Groundwater Assessment [APP-146];
- Appendix 11.9.6 - Flood Risk Assessment (FRA) [REP9-053];
- Appendix 11.9.6 - FRA Annexes 1-2 [REP8-080];
- Appendix 11.9.6 - FRA Annexes 3-6 [REP9-055];
- Appendix 11.9.7 - Wastewater Assessment [APP-150]; and
- Appendix 11.9.8 - Water Supply Assessment [APP-151]

11.2.3. In addition, to mitigate potential adverse impacts during construction the Applicant also submitted the Water Management Plan [REP8-027] which is Annex 1 of the Code of Construction Practice.

11.2.4. Several measures were proposed as part of the Proposed Development to mitigate the potential impacts on the water environment during construction and operation. These are detailed in paragraph 7.6.6 of the ES Non-Technical Summary [REP3-052] and include:

- the naturalisation of the River Mole and the proposed new channel to provide additional floodwater storage and biodiversity enhancements;
- the provision of a new water treatment system for water originating from the long term storage lagoons;
- the creation of floodplain compensation areas at Museum Field and multi-storey Car Park X and additional storage within the existing airfield surface water drainage network;
- the installation of airfield surface water drainage storage beneath multi-storey Car Park Y and new syphons to connect the floodplain on both sides of taxiways and a noise mitigation feature;

- the development of a Surface Access Drainage Strategy for the proposed highway improvements, including Sustainable Drainage Systems (SuDS);
- a new section of River Mole channel at the existing runway culvert exit;
- upgrades to the existing wastewater system, including improvements in wastewater capacity; and
- geomorphological mitigation including realignment, re-naturalisations and other engineering works at targeted locations.

11.2.5. Considering the mitigation measures described above, the Applicant concluded no significant adverse effects were likely to occur. However, the Applicant (paragraph 7.6.9 [REP3-052]) considered that the following significant beneficial effects were likely to occur with respect to the water environment:

- Long term beneficial effects on the water quality of the River Mole and Gatwick Stream during construction and operation of the Proposed Development.
- Long term beneficial effects on the geomorphology (physical characteristics) of the River Mole during construction and operation of the Proposed Development. Benefits would include River Mole renaturalised channel works, including re-meandering and restoration of natural channel morphology and improved floodplain coupling.
- Long term beneficial effects on flood risk from rivers within the Proposed Development site and surrounding area during construction and operation of the Proposed Development.

11.3. ISSUES CONSIDERED DURING THE EXAMINATION

11.3.1. In excess of 220 Relevant Representations (RR) submitted expressed concerns about the water environment impacts of the Proposed Development. Having taken these into account alongside the submitted application documents, the ExA considered that water environment would be one of the initial principal issues for the Examination. The Initial Assessment of Principal Issues (IAP) is set out in Annex C of the Rule 6 letter [PD-009].

11.3.2. We considered that the following issues needed to be examined in greater detail:

- flood risk;
- wastewater;
- water supply; and
- water quality.

Flood Risk

11.3.3. Numerous RR expressed concern that the Proposed Development would increase the amount and frequency of flooding especially along the River Mole. In addition, concern was expressed that the impacts would be greater when taking into account climate change.

11.3.4. Seventeen RR also expressed concern that the Proposed Development would increase flood events on the River Arun. The Applicant however confirmed in its response [REP3-105] to our question ExQ1.WE.1.3 [PD-012], that the Proposed Development would not affect the River Arun. Gatwick Airport lies wholly within the catchment of the River Mole (including the Mole's tributaries) that drains northwards to the River Thames. Given we had no further submissions on this matter we consider that the Proposed Development would not result in any change to flood risk in the River Arun catchment.

- 11.3.5. Gatwick is in the Thames River Basin District and within the Upper Mole catchment. The Proposed Development site coincides with areas classified as Flood Zone 2 and Flood Zone 3. There are also several areas at high, medium, and low risk of surface water flooding within the Proposed Development site. These areas are primarily associated with the River Mole and connected tributaries, including Crawler's Brook, Gatwick Stream, and Westfield Stream, which pass through or near the Proposed Development site. There are additionally, some areas within the Proposed Development site that are susceptible to groundwater flooding. However, only two occurrences of groundwater flooding have been recorded in the area, which were not near the Proposed Development site (para 5.5.8 FRA [REP9-053]).
- 11.3.6. In terms of paragraph 5.154 of the ANPS, the FRA [REP9-053] sets out the Applicant's evidence in sections 5.10 and 7.6, that both the Sequential and Exception tests have been applied in relation to the Proposed Development. The FRA included fluvial, surface water and groundwater flooding, as well as flooding due to reservoir failure, flood defence failure and sewer/ water distribution infrastructure flooding. The assessment utilised site-specific hydraulic modelling that has been developed by the Applicant (surface water drainage and wastewater) and in partnership with the Environment Agency (EA) (fluvial).
- 11.3.7. The Applicant and the EA developed the Upper Mole Fluvial Modelling Study to develop a better understanding of the flood risk in the catchment area. At the start of the Examination the EA [RR-1374] stated that they were still reviewing the Applicant's 'with scheme' flood risk modelling. Discussions continued throughout the Examination between the Applicant and the EA. In the signed SoCG [REP10-015] all matters relating to the Water Environment are shown as agreed.
- 11.3.8. Surrey County Council (SCC), one of the Lead Local Flood Authorities (LLFA), in the Joint Surrey Councils (JSCs) Local Impact Report (LIR) [REP1-097] stated that it would like the Applicant to justify why a 40-year design life had been used for the airfield as opposed to the 100 years used for highway elements. In the Joint West Sussex Local Authorities (JWSLAs) LIR [REP1-068] a similar concern was expressed about the resultant difference in climate change allowances used if the design life for airfield works at forty years was different to the one hundred years design life for highway works.
- 11.3.9. In terms of fluvial flood risk, we asked the Applicant about the differential lifetimes of the Proposed Development airfield and highway elements in question ExQ1.WE.1.6 [PD-012]. The Applicant [REP3-105] responded *"Through SoCG discussions the Environment Agency has requested sensitivity testing of a longer assumed design-life for the airfield works. However, it should be noted that as the Project has developed a combined fluvial flood mitigation strategy for both airfield and surface access elements, mitigation is provided to ensure no increase to other parties up to the 1 per cent (1 in 100) AEP [Annual Exceedance Probability] event, plus the Central allowance of +20 for climate change event. This is equivalent to assuming a 100-year design life for the airfield elements."* The Applicant goes on to explain its fluvial flood risk mitigation strategy does not differentiate between the two design lives and provides additional mitigation beyond that required for the airfield elements.
- 11.3.10. In terms of surface water flood risk, in question ExQ1.WE.1.4 [PD-012] we asked the LLFAs about climate change allowances used in the Applicant's assessment. The Legal Partnership Authorities (LePAs) [REP3-135] responded that the LLFAs (SCC and West Sussex County Council (WSSCC)) consider that an adopted design

life of 100 years should be used for the airfield works, and as such the climate change allowance for the airfield works should be increased from 25% to 40%.

- 11.3.11. The Applicant [REP3-105] responded “*As the adopted lifetime for the airfield works of 40 years (up to 2069) the airfield surface water drainage has adopted the Central allowance of + 25% for the 2070s epoch (2061 to 2125) the 1 per cent (1 in 100) AEP event for rainfall intensity in accordance with the EA guidance. A 40% climate change allowance has also been tested as a credible maximum scenario (as a sensitivity analysis) for the airfield surface water drainage, in order to test the impact of a larger potential change as a result of climate change.*” The Applicant concluded that when taking into account the mitigation measures that the Proposed Development would not adversely impact surface water flood risk or increase surface water flooding elsewhere in the credible maximum scenario.
- 11.3.12. We discussed progress on agreement of flood modelling at ISH7 [EV11-001]. The Applicant [REP4-033] outlined a similar response to its previous above statement and in the post hearing note at paragraph 4.1.10 stated it was still discussing the post development run off rates with the LLFAs.
- 11.3.13. In the signed SoCG [REP9-084] with WSCC Item 2.22.2.3 records that all matters relating to the assessment methodology are agreed, although Item 2.22.4.4 still shows WSCC disagreement with the climate change allowances. There is however no mention of outstanding disagreement in the WSCC PADSS [REP9-172]. The SoCG [REP9-080] with SCC Item 2.22.2.1 records that the issues relating to climate change allowances are no longer being pursued.

ExA’s Conclusion on Flood Risk

- 11.3.14. The ExA is satisfied with the confirmation from the EA in relation to fluvial flood risk and the final positions of the LLFAs (WSCC and SCC) in relation to surface water flooding that the Applicant has demonstrated compliance with the requirements of the ANPS and also 2015 NNNPS in relation to the highway improvement elements of the Proposed Development.

Wastewater

- 11.3.15. Thames Water Utilities Limited (TWUL) in paragraph 2.3 of its WR [REP1-103] stated that “*TWUL is working with the Applicant on its modelled foul water flows to understand the impact of the change in these (as a result of the proposed development) on TWUL’s network. The programme for delivering the likely strategic upgrade works as a result of the Applicant’s proposal should not be underestimated and will be significant (in the order of 3-5 years from when the appropriate information is supplied). TWUL requests a requirement be included within the DCO if made specifying that no additional foul water flows from the development can be discharged until the modelled flows have been agreed by TWUL and the network upgrades implemented.*”
- 11.3.16. In addition, in paragraph 9.47 of the JSCs LIR [REP1-097] the Councils express concerns about the capacity limits at the Horley Wastewater Treatment Works (WTW) and the need to deliver flow improvements from the airport to the Crawley WTW. Similar concerns about the Proposed Development adding to existing sewerage problems were expressed in paragraph 142 of the Communities Against Gatwick Noise and Emissions (CAGNE) WR [REP1-138].
- 11.3.17. Chapter 11 of the ES [APP-036] Table 11.3.4 indicates that TWUL will be undertaking its own assessment of impact upon its network. We asked in question

ExQ1.WE.1.8 [PD-012] about progress on the necessary assessment required to understand the impact on TWUL infrastructure.

- 11.3.18. The Applicant [REP3-015] responded stating that they were still in discussions with TWUL about the necessary modelling work to assess the public sewer network (PSN) and Horley and Crawley WTW. The Applicant, cognisant of the potential delivery risk to the Proposed Development in delays to the infrastructure capacity assessment, stated that it was considering an onsite WTW to treat all foul water flows from the airport.
- 11.3.19. TWUL [REP3-149] responded to WE.1.8 that it did not anticipate that detailed assessments of its public infrastructure would be completed until early 2025. This timescale would be outside of the Examination period and potentially beyond the period that the SoS would make any decision on the DCO.
- 11.3.20. Discussions continued between the Applicant and TWUL. The Applicant subsequently submitted its second change request [REP6-072] to construct and operate an onsite WTW as an alternative option in the DCO. The Applicant wanted this as an option due to TWUL's inability to confirm infrastructure capacity in the Examination timescales. It was concerned as TWUL requested a Requirement be included in the dDCO that specifies that no airport growth arising from the Proposed Development can be implemented (and wastewater flows discharged) until modelled wastewater flows have been agreed by TWUL and any necessary upgrade works to TWUL's network and processing facilities have been implemented. The Applicant considered that its onsite WTW alternative option would mean there would be no adverse impact on TWUL infrastructure and there would be a potential benefit as all airport foul water flows would be treated onsite.
- 11.3.21. We asked both the Applicant and the EA in question ExQ2.WE.2.4 [PD-021] about the environmental permit that would be required for any onsite WTW to discharge treated water to the River Mole. The EA responded [REP7-100] stating that any discharge from a new facility would require full modelling of the proposed discharge to consider potential impacts on the receiving watercourse with appropriate permit limits set accordingly to protect the environment.
- 11.3.22. In the signed SoCG with the EA [REP10-015] Item 2.22.3.13 related to the onsite WTW. The matter is recorded as agreed but the EA comments make it clear that there is still information required about the design and operation of the WTW and also *"if a permit application was successful, options include the inclusion of an improvement condition stating that connection to the sewerage network would be required at the point at which capacity became available or if Thames Water adopt the facility in the future."* We concluded from this that where there is the possibility of the Applicant providing an onsite WTW, there needs to be further work done on the detailed design and that the EA indicate a preference for eventual connection to the TWUL PSN.
- 11.3.23. In the unsigned SoCG with TWUL [REP9-064] Item 2.22.52 related to the TWUL infrastructure capacity. The matter is shown as under discussion but in bold is *"engagement and the information that GAL has provided to Thames Water has thus far failed to yield a coherent and holistic assessment from Thames Water and consequently no report from Thames Water on the likely scale and feasibility of any upgrades required which would enable either the Applicant or the Examining Authority to understand this."*

- 11.3.24. The Applicant in its final dDCO [REP10-004] has included R36 (Thames Water phasing plan) that states –
- “36.— (1) Prior to the commencement of the authorised development, the undertaker must prepare and provide to Thames Water Utilities Limited a passenger throughput phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and five years after the commencement of dual runway operations.*
- (2) The details in the plan provided pursuant to sub-paragraph (1) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book”*
- 11.3.25. TWUL [REP9-358] reiterated its earlier request for the addition of the following to R10 (Surface and foul water drainage) –
- “(7) The authorised development is not to discharge additional foul water flows to Thames Water Utilities Limited’s public sewer network until written details of the foul water discharge from the authorised development (including expected flow rates; any required hydraulic modelling results and a development phasing plan) have been submitted to and approved in writing by Thames Water Utilities Limited.*
- (8) Pursuant to sub-paragraph (7), no additional discharge of foul water flows is to take place other than in accordance with the approved development phasing plan unless otherwise agreed in writing with Thames Water Utilities Limited.”*
- 11.3.26. CAGNE in its closing statement [REP9-223] reiterated its view that it considered that it would be entirely appropriate and necessary for the ExA to impose a phasing requirement in the DCO for no additional growth until the upgrades are carried out.
- 11.3.27. We understand the general sewerage drainage duty TWUL have with respect to Section 94 of the Water Industry Act 1991 but consider this has particular reference to the future baseline position and any resultant growth in foul water flows. The Applicant has applied for development consent for works that will lead to a significant increase in passenger numbers at the airport over the growth anticipated in the future baseline. In the Proposed Development scenario, we consider it is reasonable that TWUL ought to have the ability to ensure it can plan for and accommodate the additional flows associated with the application.
- 11.3.28. We understand that the Applicant and TWUL are working towards a solution to understand any necessary upgrades required to TWUL infrastructure. The EA has also expressed its preference for the airport sewer network to be connected to the PSN. The provision of an onsite treatment works (Works No 44 dDCO [REP10-004]) is being proposed by the Applicant as an alternative should an agreed position about the PSN and Crawley and Horley WTWs not be in place at the time of first dual runway operation.
- 11.3.29. The Applicant has proposed a new R36 that states that the undertaker would provide TWUL with a passenger growth phasing plan to provide comfort as to the anticipated passenger throughput trajectory and thus enable TWUL to understand the maximum wastewater flows and plan accordingly. There is no cross reference in the dDCO [REP10-004] between this new R36 and R31(3) concerning the construction sequencing of the onsite WTW.

ExA's Conclusion on Wastewater

- 11.3.30. We were unable to ascertain the final position between the Applicant and TWUL as the last submitted SoCG [REP9-094] remained unsigned at the end of the Examination with matters relating to wastewater recorded as still under discussion.
- 11.3.31. Taking all of these matters into account we consider that TWUL should be able to plan for and deliver any necessary improvements required to facilitate the additional foul water flows associated with the Proposed Development. We also consider that:
- The Applicant's final dDCO [REP10-004] R36 does not allow any control by the statutory sewer undertaker (TWUL) of the additional increased foul water flows resulting from the Proposed Development in order for proper planning of its network infrastructure and possible improvements that may be required;
 - The Applicant's final dDCO [REP10-004] does not have any linkage between the two alternative wastewater solutions in R31 and R36; and
 - The TWUL [REP9-358] proposed additional wording to R10 is not precise as it would not be possible to understand the point at which additional foul water flow was as a result of the Proposed Development rather than the future baseline growth.
- 11.3.32. Taking these factors into account we are recommending in the rDCO an amended R31, which combines R36 and clarifies the approach with respect to the alternative wastewater options proposed by the Applicant. Our suggested revision to R31 would be to delete the existing paragraph 3 and replace it with the following –
- (3) Prior to the commencement of the authorised development, the undertaker must prepare and provide to Thames Water Utilities Limited a development phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and ten years after the commencement of dual runway operations.*
- (4) The details in the plan provided pursuant to sub-paragraph (3) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book.*
- (5) The commencement of Work No 44 (wastewater treatment works) must not take place until and unless Thames Water Utilities Limited confirm in writing within two years of the making of this Order that following review of the development phasing plan it's infrastructure will not be able to accommodate the additional foul water flows for the ten-year period after the commencement of dual runway operations.*
- (6) The commencement of dual runway operations must not take place until either*
-
- (a) The development phasing plan has been approved in writing by Thames Water Utilities Limited, or;*
- (b)(i) Work No. 44 (wastewater treatment works) has been completed; and*
- (ii) an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 for the operation of Work No. 44 (wastewater treatment works).*
- 11.3.33. We consider that this amended R31 would ensure that priority was given to the agreement between the Applicant and TWUL concerning the impact on and

necessary upgrades to the PSN and WTW. From the evidence submitted to the Examination this did appear to be the preferred solution for the Applicant, TWUL and the EA.

- 11.3.34. As this matter was not concluded at the end of the Examination and the SoCG remained unsigned we are recommending this amendment for the rDCO to resolve the issue. Normally we would have consulted the relevant parties on this pre-commencement Requirement, but this was not possible on this occasion. We would recommend that the SoS may wish to consult the relevant parties about this amended R31 prior to making any decision on the making of the Order.
- 11.3.35. The ExA, taking into account our proposed amendment to R31, considers that the wastewater solution would be acceptable and that there would be no likely significant effects relating to wastewater arising from the Proposed Development.

Water Supply

- 11.3.36. Thirty-three RR expressed concerns about the supply of water. The concern was that any additional water supply demands created by the Proposed Development would create additional stress on water abstraction.
- 11.3.37. The Water Supply Assessment (WSA) [APP-151] sets out that Gatwick's water is supplied by Sutton and East Surrey Water (SES Water). In paragraph 0.1.3 of the WSA the Applicant states that "*Sutton and East Surrey water has not identified any impediment to their meeting the increase in demand.*" Table 11.3.4 of ES Chapter 11 [APP-036] stated that SES Water will be undertaking its own assessment of the impact on water supply.
- 11.3.38. We asked in question ExQ1.WE1.9 [PD-012] both the Applicant and SES Water about progress on the water supply assessment. The Applicant [REP3-105] confirmed that they had recent communication from SES Water that they did not consider it needed to make a representation to the Planning Inspectorate relating to the Proposed Development as a consequence of ensuring its operation as a water undertaker. At that time SES Water did not respond directly to our written question.
- 11.3.39. Before the end of the Examination, we wanted to be certain that the water supply required for the Proposed Development could be delivered. We asked in question ExQ2.WE.2.1 [PD-021] for confirmation directly from SES Water. SES Water [REP7-118] responded that "*we provide this correspondence to confirm we are satisfied we will be able to meet the proposed development's water supply requirements.*"
- 11.3.40. With this reassurance the ExA is satisfied that the water supply required for the Proposed Development can be met.

Water Quality

- 11.3.41. Twelve RR expressed some concern that the Proposed Development would lead to a deterioration of the water quality especially in the River Mole.
- 11.3.42. The Applicant's ES Chapter 11 provided two appendices relating to the assessment of water quality and one relating to the status of water bodies. These are outlined above.
- 11.3.43. The Applicant submitted Change 3 [AS-139] during the Examination regarding the treatment of runoff from the airport that is potentially contaminated with de-icer.

Currently this is discharged to TWUL's Crawley WTW for treatment prior to discharge to the Gatwick Stream. The Applicant's original submission was to provide a Moving Bed Biofilm Reactor (MBBR) treatment plant, to cease discharge to the Crawley WTW and instead to send treated outflows directly to the Gatwick Stream. Change 3 was to replace the MBBR treatment plant with an engineered wetland (reed bed) process to treat the potentially contaminated runoff and still discharge to the Gatwick Stream.

- 11.3.44. WSJLAs [REP6-116] in Item 3.1 raised concerns that the SuDS manual approach the Applicant adopted for the car park assessment within the Water Quality HEWRAT Assessment should also be used for the assessment of the proposed highways works. The Applicant [REP7-095] responded that the adoption of HEWRAT for the water quality assessment during the operational phase of the proposed highways works is in line with Design Manual for Roads and Bridges and reflective of the influence of highway traffic volumes. Therefore, the Applicant considered the use of the HEWRAT method appropriate to assess the risks associated with routine runoff from the highway components of the Proposed Development. Additionally, the Applicant explained that it considered the application of separate assessment methods to different elements of the Proposed Development to be appropriate and proportionate for potential significant effects to be identified. We see no reason to disagree with the Applicant's position in this respect.
- 11.3.45. The Water Framework Directive (WFD) Compliance Assessment [APP-143] concluded *"that it is anticipated that the Project would not lead to deterioration in the current status or prevent the WFD water bodies from achieving "Good" Status/Potential in the future and is therefore considered compliant with the WFD legislation."* There were no representations during the Examination to contradict that conclusion and we are satisfied that the Applicant has demonstrated compliance.
- 11.3.46. At the end of the Examination there were no outstanding issues identified in either the SoCG or PADSS relating to water quality between the relevant parties. Given this and the findings of the Applicant's assessment outlined above, the ExA is satisfied that the Proposed Development would not have any likely residual significant adverse effects on water quality.

11.4. ExA's CONCLUSION ON WATER ENVIRONMENT

- 11.4.1. The ExA is satisfied that there are no outstanding construction and operational issues relating to flood risk, water supply and water quality that would not be satisfactorily controlled by the following rDCO Requirements:
- R7 Code of Construction Practice, in particular Annex 1 Water Management Plan [REP8-027];
 - R23 Flood compensation delivery plan [REP8-096]; and
 - R24 Flood Resilience Statement [REP9-055].
- 11.4.2. In terms of the effects created by the Proposed Development on the water environment, the impacts relating to wastewater remained unresolved at the end of the Examination. The Applicant's Wastewater Assessment [APP-150] focused on the onsite wastewater network as the PSN is the responsibility of TWUL. It did not find any issues relating to the proposed onsite infrastructure. However, it is clear that the ongoing discussions between the Applicant and TWUL had not resolved whether the additional wastewater flows associated with the Proposed Development can be accommodated by TWUL public infrastructure.

- 11.4.3. The Applicant, understanding the importance of this issue, proposed an alternative wastewater solution to provide an onsite WTW that would mean all wastewater from the airport would be treated onsite and not be added to the PSN. That said, the preference demonstrated from the Applicant and the EA in item 2.22.3.13 of the SoCG [REP10-016] was for wastewater flow to be discharged into the PSN rather than enter into a separate discharge permit into the River Mole for the onsite WTW.
- 11.4.4. We conclude that there needs to be some certainty as to the ability of TWUL infrastructure to accommodate the additional wastewater flows before any consideration that an alternative onsite WTW should be constructed. We are therefore recommending that an amended R31 that would allow for both alternative options, but first preference would be given to the connection to the PSN under TWUL's control.
- 11.4.5. The ExA considers that on the basis of the flood risk, wastewater, water supply and water quality considerations set out above that the Proposed Development accords with the relevant sections on the ANPS, the 2015 NNNPS and other relevant legislation and policy requirements . Therefore, should the SoS accept the amended R31 as drafted in the rDCO the ExA considers that the Proposed Development should be given neutral weight in the overall planning balance. If the SoS was not minded to accept the ExA's amended R31 and the wastewater issues remain unresolved, the overall conclusion would be that it would attract a little weight against making the Order.

12. LANDSCAPE AND TOWNSCAPE

12.1. INTRODUCTION

- 12.1.1. This Chapter considers the effect of the Proposed Development in relation to landscape and townscape.
- 12.1.2. On 22 November 2023 all Areas of Outstanding Natural Beauty (AONBs) in England and Wales were re-named as National Landscapes (NL). For ease of reference and reporting all the references to these designated areas are as NLS.

12.2. THE APPLICATION

- 12.2.1. The Applicant's assessment of matters relating to Landscape and Townscape is largely contained within Chapter 8 of the ES [APP-033] and accompanying appendices.

STUDY AREAS

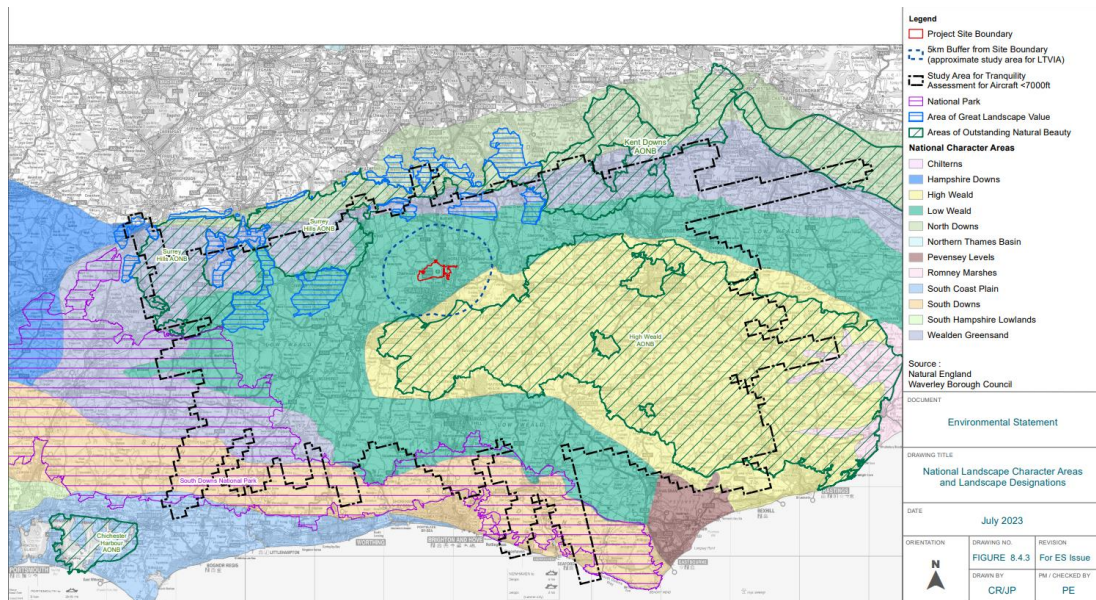
- 12.2.2. The ES describes various study areas for landscape and townscape assets, as follows:
- existing and proposed Zones of Theoretical Visibility (ZTV) within 5km radius of the Proposed Development;
 - existing and proposed ZTV within the wider landscape (extending beyond 15km radius following feedback); and
 - a wider study area to coincide with overflying aircraft at height profiles up to 7,000ft to consider effects on the perception of tranquillity. Such an area includes the NLS of the High Weald, Surrey Hills, Kent Downs, and the South Downs National Park (SDNP).
- 12.2.3. The 5km radius was chosen following assessment of the Proposed Development from Leith Hill, 11.3 km from the site and the highest hill in the southeast of England. The Applicant considered that the proposal was barely perceptible from this viewpoint and that the ZTVs show that the vast majority of land that may be potentially intervisible with the Proposed Development lies within 5km.

BASELINE

- 12.2.4. The Applicant notes that the baseline was ascertained from a desk study of a review of relevant planning policy and relevant background documents, such as aerial photography, maps and local publications including landscape character assessments. A series of daytime summer and winter views and wider nighttime views were identified, based on the ZTV, landscape designations and the public rights of way (PRoW) network. The results of these views are shown in the accompanying figures to the ES chapter [APP-060 to APP-062].
- 12.2.5. The Applicant noted that due to the scale (over 850 hectares) and the nature of development at Gatwick that the airport forms its own distinctive and well-defined urban landscape. Much of the land in the boundary of the Proposed Development is flat and open, occupied by runways, taxiways, stands, surface car park and mown grassland, with the main built form at the north and south terminals. Architectural treatments and materials vary throughout the site. It also stated that the airport is also well lit in the vicinity of the terminals, stands and car parks and around the internal roads.

- 12.2.6. Green infrastructure around the project site is associated with the River Mole to the north west of the site and areas to the north west and east of the railway line. Open areas of grassland can be found at Pentagon Field to the east. Mature hedgerows/shrubs and planting define the perimeters of car parks and many of the site roads and connecting roads. Important landscape features on the boundary of the project site include Brockley Wood east of the River Mole and the Riverside Garden Park, to the north of the airport and the south of Horley. Church Meadows lies to the north of the Longbridge Roundabout.
- 12.2.7. The closest point of the High Weald NL (HWNL) is located some 3km to the south-east of the project site, separated from the airport by Crawley. It is noted that the Management Plan states that ‘Other Qualities’ of the HWNL include *“People value the wonderful views and scenic beauty of the High Weald with its relative tranquillity”, and a key issue for the plan is “Development including traffic, noise and light pollution, degrading the AONB’s tranquil and dark qualities”, with an objective “to protect and promote the perceptual qualities that people value”, to ensure that the “special qualities people value, such as tranquillity, dark skies, sense of naturalness and clean air, are recognised and taken account of in AONB [now NL] management.”*
- 12.2.8. Surrey Hills NL (SHNL) lies to the west and north-west of the airport. Eleven features that define the special character of SHNL include views, tranquillity and dark skies. The Kent Downs NL (KDNL) lies to the north-east of the airport, covering a large swathe of land heading south-east. Special qualities of the KDNL include tranquillity and remoteness. The SDNP lies to the south-west and south of the airport. One of the special qualities of the SDNP are tranquil and unspoilt places.

Figure 12.122: National Landscape Character Areas and Landscape Designations in the Vicinity of the Airport



- 12.2.9. Gatwick Airport and its immediate landscape context are located within the Low Weald National Character Area (NCA) 121; other NCAs within the wider study area include High Weald NCA 122, Wealden Greensand NCA 120 and North Downs NCA 119 (see Figure 12.1 above [APP-060]). Local (District) Landscape Character Assessment areas within the area are shown below:

- Crawley:

- Upper Mole Farmlands (between Crawley and the airport);
- North East Crawley High Woodland Fringes; and
- Manor Royal (Northgate) Townscape.
- Mole Valley:
 - Open Weald;
 - Charlwood Townscape; and
 - Hookwood Townscape.
- Reigate and Banstead:
 - Low Weald; and
 - Horley Townscape.
- Horsham:
 - Warnham and Rusper Wooded Ridge; and
 - Upper Mole Farmlands.
- Mid Sussex:
 - High Weald;
 - High Weald Plateau; and
 - Worth Forest.

12.2.10. Following a review of the various landscape and townscape character assessments the Applicant considered that the distinct character of the airport itself had not been adequately described, and hence an assessment was undertaken. A summary of this can be found in paragraph 8.6.109 of the ES [APP-033]:

“The overall value of the Gatwick Airport Urban character area is considered to be low. The extensive built development and infrastructure at Gatwick are typical of an international airport. They are largely dictated by the function of the airport and are not highly valued with regard to any of the nine criteria above. The green and blue infrastructure associated with the River Mole and Gatwick Stream, blocks and belts of mature woodland, hedgerows and trees have a greater value and will be protected and enhanced, where possible, within or adjacent to the Project. This green infrastructure links into the surrounding Low Weald, providing a transition from the urban character of the airport and the largely agricultural character of the landscape and makes a positive contribution to the wider area.”

12.2.11. The Applicant selected 33 representative viewpoints largely from within the 5km radius study area, with a further viewpoint chosen from Leith Hill (11km from the site). Viewpoints were assessed in summer, winter, and at night (winter). Locations of the representative viewpoints can be found in Figure 8.4.1 of [APP-060] with the baseline photography found in the same document [APP-060] and wireframe massing images found in [APP-061 to APP-062].

12.2.12. Various developments that are proposed/ consented (as described in ES Chapter 4, Existing Site and Operation [APP-029]) are included in the future baseline conditions, including the extension to Pier 6 and multi storey car parks (MSCP) at the South and North Terminal. Air Traffic Movements (ATMs) and consequential noise in the future baseline are also included for tranquillity assessments, taken from the ES Chapter 14: Noise and Vibration [APP-039]

CONSTRUCTION PHASE

Initial construction period 2024 to 2029

- 12.2.13. The works are predicted to have a significant effect during the initial construction period to the following receptors:

Table 12.1: Significant Landscape/ Townscape Effects Construction 2024 to 2029

Location/Receptor	Significance of Effect	Notes
Mole Valley Open Weald Character Area	Negligible to Major adverse	Significant effects north of Longbridge Roundabout
Occupiers of Hilton Hotel	Major to moderate adverse	Significant effects during construction phase reducing to not significant when neighbouring developments operational

- 12.2.14. Users of public open space at Riverside Garden Park and Church Meadows in Horley are predicted to be subjected to moderate to negligible adverse effects during the day and moderate to minor adverse at night from the works, although these are not assessed as significant.

CONSTRUCTION AND OPERATIONAL PHASE

2030 to 2032

- 12.2.15. The works are predicted to have a significant effect during the initial combined construction and operation period to the following receptors:

Table 12.2: Significant Landscape/ Townscape Effects Construction and Operation 2030 to 2032

Location/Receptor	Significance of Effect	Notes
Mole Valley Open Weald Character Area	Major adverse (day) and moderate adverse (night)	-
Users of public open space at Riverside Garden Park and Church Meadows Horley	Major adverse (locally), moderate to negligible (generally)	-
Occupiers of number 74 Longbridge Road Horley	Major adverse	Views from rear garden in summer when the change would be most noticeable
Occupiers of Hilton Hotel	Moderate to Major adverse	Significant effects during construction phase reducing to not significant when neighbouring developments operational

2033 to 2038

- 12.2.16. The works are predicted to have a significant effect during this construction and operation period to the following receptors:

Table 12.3: Significant Landscape/ Townscape Effects Construction and Operation 2033 to 2038

Location/Receptor	Significance of Effect	Notes
Occupiers of number 74 Longbridge Road Horley	Major adverse	Views from rear garden in summer when the change would be most noticeable

- 12.2.17. During this period adverse effects on the Mole Valley Open Weald Character Area and users of Riverside and Church Meadows were predicted to be partially offset by the beneficial effects of new public open green space adjacent to Church Meadows.

Design Year 2038 and Beyond

- 12.2.18. No significant effects are predicted beyond 2038, where landscape mitigation is assumed to have matured.
- 12.2.19. An Outline Landscape and Ecology Management Plan (oLEMP) was submitted prior to the Examination [APP-113 to APP-116], as well as a Design and Access Statement (DAS) [APP-253 to APP-257], which included Design Principles as Appendix A1 to this document. Requirement (R) 8 of the draft Development Consent Order (dDCO) submitted prior to the commencement of the Examination [AS-004] stated that prior to commencement of any part of development a Landscape and Ecology Management Plan (LEMP) for that part must be submitted and approved by the relevant planning authority. Detailed design was covered by R4. The oLEMP and Design Principles were also certified documents under Schedule 12 of the dDCO.

Cumulative Effects

- 12.2.20. Cumulative effects of the Proposed Development are assessed together with nineteen developments (residential and commercial) on the Landscape and Townscape character of the North East Crawley High Woodland Fringes, Horsham Upper Mole Farmlands, Low Weald, Mole Valley Open Weald, and the Mid Sussex District High Weald Plateau Character Areas. Significant effects are considered likely across all character areas, with significant visual effects on mid to long distance views from elevated locations. Such effects would extend across all time periods (from 2024 to 2038 and beyond). The ES considers that the Proposed Development would make a negligible to medium contribution to such significant effects.

Mitigation

- 12.2.21. Table 8.8.1 of Chapter 8 of the ES [APP-033] summarises the mitigation and enhancement measures adopted as part of the Proposed Development. This table is further summarised below.

Table 12.4: Summary of Table 8.8.1

Measure	Justification	How secured
<i>Mitigation</i>		
Vegetation retention where possible	To ensure green infrastructure assets are retained wherever possible and minimise adverse impacts	ES Appendix 8.8.1 oLEMP
Proposed public open space	Replacement areas of public open space with links to existing Riverside Garden Park at Car Park B and Church Meadows Extension to River Moles footpath and new publicly accessible land at Museum Field and Brook Farm	oLEMP and ES Appendix 19.8.2 PRoW Management Strategy, and secured through dDCO
Proposed planting	To provide replacement/compensation planting and ensure a high-quality environment	oLEMP, and secured through dDCO
Proposed earth shaping and bunds	To ensure visual screens are provided to minimise visual effects and provide habitats.	oLEMP, and secured through dDCO
Proposed fences/walls/barriers	To ensure visual screens are provided to minimise visual effects and replace removed features	oLEMP, and secured through dDCO
Proposed hard landscaping	To ensure a high-quality environment	oLEMP, and secured through dDCO
Lighting	Lighting framework prepared with measures to minimise adverse impacts on biodiversity, local residents and users of PRoW and open space.	ES Appendix 5.2.2 Operational Lighting Framework, and secured through dDCO
<i>Enhancement</i>		
Management or implementation of mitigation to enhance green infrastructure	To enhance character, visual quality and biodiversity of the airport and surrounding landscape/townscape	oLEMP, and secured through dDCO

12.3. ISSUES CONSIDERED DURING THE EXAMINATION

- 12.3.1. Relevant Representations (RR) concerning landscape and townscape largely considered light pollution in dark sky areas and any effects from the proposed increase in flights over NLs and the SDNP on tranquillity. The point was made that flights affect places set at higher altitudes, such as Leith Hill, due to the topography of the land, and conditions were requested to ensure no additional flights took place over the existing Surrey Hills NL [RR-4400].
- 12.3.2. Replying to the RRs, the Applicant [REP1-048] noted the study within the ES concerning tranquillity and the effect of increase of overflying aircraft up to 7,000ft above ground level, which concluded that an increase of 20% overflights would result in minor adverse effects, which is not significant. It also stated that the special qualities that people living within and visiting nationally designated landscapes experience, including distant scenic views and the landscape's relative tranquillity and dark skies, whilst affected to some extent as a result of an increase in the number of overflying aircraft, would still be positive qualities.
- 12.3.3. In response to concerns over the loss of community green space, the Applicant noted that replacement green space would be provided at Car Park B and adjacent to Church Meadows, and that landscape planting proposals would be secured by the dDCO. A Code of Construction Practice (CoCP) would manage and minimise disturbance from construction.
- 12.3.4. The joint Crawley Borough, Horsham and Mid Sussex Districts and the West Sussex County Councils Local Impact Report (LIR) (the West Sussex LIR) [REP1-068] noted that the airport is already a large and established feature within the landscape and that the current level of ATMs is such that there is no perception of tranquillity in the vicinity of the airfield. Given this baseline they considered that a key objective should be to limit the visual impact as far as possible within the existing site boundary. Concerns were also raised over increased overflights over the HWNL. In its summary of impacts the LIR raised the following impacts:
- visual impact of construction compounds;
 - lack of control over landform/ visual appearance of Pentagon Field (a proposed spoil deposition area);
 - increased visual impact from tree loss (car parks);
 - increased visual impact from highway works;
 - visual impact of the Central Area Recycling Enclosure (CARE) facility and larger scale buildings (the CARE facility was reduced in height significantly during the Examination); and
 - noise from increased overflight over NL, loss of tranquillity and the use of the 'WIZAD' flight path over the HWNL.
- 12.3.5. The East Sussex LIR [REP1-070] raised concerns over the impact of an increase in night flights on dark skies, particularly over the HWNL and the SDNP, and stated that any effect should be appropriately mitigated.
- 12.3.6. The LIR of Surrey County, Mole Valley, Tandridge Districts and Reigate and Banstead Borough Councils (the Joint Surrey Councils (JSCs) LIR) [REP1-097] states that the viewpoints are agreed. During the construction phase principal concerns were raised over the following works and those associated with them:
- Longbridge Roundabout: Would have a very significant detrimental impact and would undermine visual amenities (including on walkers, cyclists and the

occupiers of residential properties) for many years. The loss of approximately 25m of the woodland belt between Riverside Garden Park and the roundabout would change the character of the area resulting in a major adverse effect during the day and night on the landscape character. Would also have an urbanising effect of the area (including on Church Meadows) which would take 20-30 years to recover.

- South Terminal contractor compound: Adverse impact on Low Weald Landscape and on the occupiers of a nearby residential property.
- Construction compound Car Park B: Moderate adverse effect on walkers using the Sussex Border Path 362a and minor impact on cyclists on National Cycle Route 21 through vegetation and mature woodland removal.
- M23 Spur: Adverse impact on walkers using the Sussex Border Path 368 and upon the occupiers of residential properties through removal of highway planting and increase in engineering features, such as flyovers, retaining walls and noise barriers.

12.3.7. Concerns were raised over the following issues during operation:

- Additional flights over the SHNL and protected Area of Great Landscape Value would harm the tranquillity of this area. The SHNL is also undergoing a boundary review which may increase the size of the area affected.
- Timescales stated by the Applicant for landscape restoration significantly underestimate the time it takes for a tree to reach maturity. The green buffer between Horley and the M23 Spur/A23 provides an important visual and tranquillity barrier and would be substantially diminished. Road and bridge construction impacts would be “*brutal*” and not until the late 2050s would new tree lines be fully matured to reduce such impacts.
- Tranquillity and noise effects of increased traffic and of the new Juliet holding spur bringing taxiing aircraft closer on Charlwood.
- Effects of increased air flights on Capel, six km to the west of the airport.
- Substantial amounts of new built form, such as the new hangar, hotels, decked car park, Pier 7 and the fire training ground would have an effect on local landscape character and on receptors, particularly in winter. This represents a significant adverse overall effect on visual receptors in Surrey.
- Wireframe visualisations rather than full photomontages are potentially misleading, as is the choice of development timescales chosen for the visualisations.

12.3.8. The LIR states that mitigation is required (and is required to be agreed) at the following locations:

- from Longbridge Roundabout to the junction of the M23;
- Church Meadows;
- Sussex Border Paths 362 and 368, National Cycle Route 21;
- residential occupiers on Longbridge Road and at Meadowcroft House;
- within SHNL to compensate for loss of tranquillity;
- noise bund at western runway end; and
- Open space land to be removed as part of the construction should be replaced prior to them being acquired.

12.3.9. A Statement of Common Ground (SoCG) was submitted at D1 between the Applicant and Natural England [REP1-037]. This noted ongoing discussions between the two parties in relation to the tranquillity of HWNL, but also noted agreement that:

“the increase in overflights in the Kent Downs AONB [NL], Surrey Hills AONB [NL] and South Downs National Park is negligible in terms of magnitude, resulting in a minor adverse impact upon the designated landscapes, and will not require mitigating”.

- 12.3.10. In response to the Surrey LIR, the Applicant noted [REP3-078] that the CoCP sets out general methodologies and mitigation measures for construction compounds, including for the Longbridge Roundabout contractor compound and works along the A23/ M23 Spur. Mitigation measures include monitoring and mitigating obtrusive light at night and retaining visually significant vegetation wherever possible. Mitigation and design measures in the oLEMP include replacement native tree and scrub species. The CoCP includes an Outline Arboricultural and Vegetation Method Statement [REP9-037 to REP9-042] including tree removal and protection plans which has been revised at Deadline (D)3. They considered that vegetation removal adjacent to Church Meadows would only have a short-term impact and that the oLEMP shows the overarching vision for the Proposed Development.
- 12.3.11. The Applicant further stated [REP3-078] that general measures within the CoCP and in the Public Rights of Way Management Strategy [REP9-061] included management measures and mitigation for public footpaths during construction. A new 2.4m high closed board fence would be erected along the boundary of the works area in the vicinity of residential properties on Longbridge Road. In relation to the SHNL it noted that the boundaries are yet to change but noted that the ZTV analysis in the ES indicated that any change in view in these areas is likely to be negligible or minor adverse, similar to the identified views from Leith Hill. Further justification referring to Civil Aviation Authority (CAA) Guidance was provided relating to any effect on the SHNL. Effects relating to Charlwood are assessed in the ES and visualisations are provided according to guidance from the Landscape Institute. Finally, the Applicant stated that the approach taken towards replacement open space is consistent with several recently made DCOs.
- 12.3.12. Similar comments were made by the Applicant [REP3-078] in response to the West Sussex LIR. It noted that the CoCP set out typical measures to minimise impact on landscape and visual resources from construction compounds, including such methods as appropriate positioning of infrastructure within compounds, types and location of lighting and boundary treatments. Landscape design for Pentagon Field is set out in the oLEMP and illustrated in the photo montages. In relation to the WIZAD flight path, it noted that the route is a tactical routing allocated by air traffic control to alleviate airspace congestion and may be offered at a late stage of taxiing to aircraft, but that the route should not be used for flight planning purposes. The Applicant stated that under the baseline and the Proposed Development, the use of WIZAD would be based on the current airspace route structure and operated in accordance with any existing restrictions or requirements.
- 12.3.13. Questions were asked in the ExA’s first written questions (ExQ1) [PD-012] concerning the following topics:
- details of construction compounds;
 - Pentagon Field;
 - landscaping proposals for proposed car parks X, Y, purple parking, and north terminal;
 - effects on residents of Longbridge and Balcombe Roads and those identified within the LIRs;
 - mitigation for vegetation loss during highway works;
 - usage of WIZAD/Noise Preferential Route 9;

- effects upon National Landscapes and the proposed extension to the Surrey Hills NL.

- 12.3.14. In response, further details were provided by the Applicant [REP3-097] for construction compounds and for the use of Pentagon Field, including management of public footpath 359/Sy and mitigation proposals. In response to the request for landscaping proposals, the Applicant drew attention to the DAS and accompanying Design Principles, and reference was drawn to Chapter 8 of the ES concerning the living conditions of local residents where minor to moderate effects were identified to various residents during construction. Mitigation for highway works was detailed in the oLEMP and the ES Appendix 8.10.1: Tree Survey Report and Arboriculture Impact Assessment.
- 12.3.15. In relation to WIZAD (which routes aircraft between Crawley and Horsham, and then across the HWNL), the Applicant noted that no new flight paths were proposed as part of the Proposed Development and that WIZAD should not be used for flight planning purposes under the UK Aeronautical Information Publication. It noted that as a worst-case the use of WIZAD would increase to around 32 movements per day under the Future Baseline and that this would increase to around 39 movements under the Proposed Development. It noted that the ES provides a summary of representative assessment locations and overflight numbers, which includes assessment at Wakehurst Place. At this location, in 2032 flights would increase to 33.8 per day from 28.2 under the future baseline.
- 12.3.16. The Applicant states that people generally experience a relatively high level of tranquillity in nationally designated landscapes of high scenic quality and that overflying aircraft at less than 7,000 feet above local ground level currently form a regular visible or audible feature that forms a slightly discordant aspect when experiencing the landscape. It considers that the special qualities that people living within and visiting the HWNL (and the SHNL), whilst affected to some extent as a result of an increase in the number of overflying aircraft, would still be positive qualities that would continue to be experienced.
- 12.3.17. In relation to the proposed SHNL extension, the Applicant noted that the proposed extension would significantly increase the area of the NL. An assessment was undertaken as part of the response with new locations to test for visibility, concluding that effects on visual receptors of the Proposed Development would be of negligible magnitude and that previous assessments of overflying aircraft would remain valid.
- 12.3.18. The ExA's second written questions (ExQ2) [PD-021] asked further questions over WIZAD, the Surrey Hills NL proposed extension, the detail and appropriateness of visualisations, and vegetation loss along the A23. Questions relating to WIZAD were also examined in ISH9 [EV20-007 to EV20-014].
- 12.3.19. In response, [REP7-087] the Applicant largely referred to their previous answer to ExQ1.LV1.6 and ExQ1.LV1.8 confirming that that no new flight paths were proposed as part of the Proposed Development and that an increase in the number of overflying aircraft over the HWNL and SHNL (and proposed extension) of up to 20% (worst-case scenario) would occur. In response to a question concerning the adequacy of the visualisations, the Applicant noted that these were prepared to a specification set out by Reigate and Banstead Borough Council (RBBC) in May 2024 and set out the documents which covered landscape and ecological proposals:

- ES Landscape, Townscape and Visual Resources Figures [REP2-006 to REP2-008];
- landscape concept sketches and cross sections in the oLEMP [REP9-047] to [REP-052], provided at D6, as well as the indicative and illustrative landscape proposals contained within this document; and
- DAS [AS-154 to AS-156], [REP7-059], [REP7-061] and the accompanying Design Principles [REP9-062], showing the master plan for the Proposed Development, analysis of landscape character and visual resources, as well as detailed landscape design principles and built form design principles for individual works within the Proposed Development.

12.3.20. In relation to the question concerning the A23 mitigation proposals, the Applicant noted the update of the following documents at D6 providing further details of trees and vegetation that would be lost, those that would be retained, protection and replacement plans:

- ES Appendix 8.10.1 Tree Survey Report and Arboriculture Impact Assessment [REP8-064 to REP8-075];
- Code of Construction Practice Annex 6 – Outline Arboricultural and Vegetation Method Statement [REP9-037 to REP9-042]; and
- Note on Project Wide Habitat Loss and Replacement [REP6-071].

12.3.21. At D8 the Applicant submitted a revised dDCO [REP8-005], including a new requirement R39, entitled ‘Tree balance statement’. This requirement stated that on or before the ninth anniversary of the commencement of dual runway operations, a tree balance statement (TBS) would be submitted to CBC for approval. The purpose of the TBS is to show the number of trees that would be removed as part of the Proposed Development and the total number of replacement trees that have been required to replace these under the terms of Crawley Borough Council (CBC) Policy CH6¹⁶. A provision for a contribution to CBC should the number of replacement trees be deficient is also included.

12.3.22. On 14 August 2024 the ExA published a request under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Rule 17) for further information [PD-027]. The Applicant and the Surrey Hills AONB Board were asked about amendments made to section (s) 85 of the Countryside and Rights of Way Act 2000 in terms of altering the duty on the relevant authority to “*further the purpose of conserving or enhancing the natural beauty*” of a NL as opposed to ‘having regard’ to the purpose of a NL, as was stated previously.

12.3.23. In response to the Rule 17 request, the SDNP Authority [REP9-351] drew the attention of the ExA to the similar s245 duty within the Levelling Up and Regeneration Act 2023 relating to National Parks. They noted that the duty is important and pro-active and strengthens the previous duty of ‘to have regard to’. The SDNP Authority acknowledged that the new duty does not preclude decisions that are ‘harmful’ to the National Park, but that the new duty requires positive evidence that the relevant authority has, in all circumstances, sought to further the purposes and that this should not merely be through the mitigation of any harm but by taking all reasonable steps to further the statutory purposes. It notes that Natural England’s advice states:

¹⁶ Policy CH6 (Tree Planting and Replacement Standards), Crawley 2030: Crawley Borough Local Plan 2015-2030 (16 December 2015)

- *‘the new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose,’ and*
- *‘the proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development.’*

12.3.24. The SDNP Authority considered that the Applicant failed to give ‘great weight’ to the National Park and mitigate the harm caused and that it cannot be said the proposal has taken all reasonable steps to further the statutory purpose.

12.3.25. In response to the Rule 17 request, the Applicant [REP9-121] stated that the duty is to ‘seek to further’ the statutory purposes, not to further the purposes and that compliance with the duty does not mean that the Secretary of State (SoS) must achieve a furthering of these purposes. It also notes that the duty is a general one and needs to be applied in context and that the Proposed Development would result in an increase in overflying over the nationally designated landscapes (as assessed in the ES) of between 6% and 20%, when compared to the future baseline. It concludes that this would be a negligible change with only minor affects, and notes that Natural England agree that no mitigation measures would be required [REP1-037].

12.3.26. Relevant to landscapes and townscapes, at the same deadline SoCGs with CBC [REP9-066], Mid Sussex District Council (MSDC) [REP9-074], Mole Valley District Council (MVDC) [REP9-076], RBBC [REP9-078], Surrey County Council (SCC) [REP9-080], West Sussex County Council (WSCC) [REP9-085] were submitted. Relevant Principal Areas of Disagreement Summary Statement [PADSS] were also submitted for CBC [REP9-133], HDC [REP9-139], KCC [REP9-144] MSDC [REP9-152], RBBC [REP9-166], SCC [REP9-168]. and WSCC [REP9-172]. In summary the outstanding areas of disagreement in these documents were:

- Vegetation loss and tree balance:
 - R39 requires refinement to fully address CBC Policy CH6 and to secure replanting earlier in the project – leaving the tree balance statement until nine years after commencement of dual runway operations is too late [REP9-133].
 - Detail of extent of vegetation loss inadequate in the application and loss of broadleaved woodland not mitigated for by the Proposed Development (SCC, [REP9-168]).
- Design control of specific elements of the proposed development:
 - Lack of control over key project sites in sensitive locations (CBC, [REP9-133]).
 - Adequate safeguarding required for Charlwood House and Park Farmhouse (CBC, [REP9-133]).
 - Detail requested for Car Park B construction compound (location and appearance) (RBBC [REP9-166]).

- Nationally designated landscapes:
 - Lack of detailed data and assessment of the impacts of the intensified use of WIZAD (HDC, [REP9-139], MSDC [REP9-152]) on sensitive receptors, including tranquil landscapes and NLs (and Historic Parks and Gardens).
 - The Proposed Development should seek to further the purposes of the NL (KCC, [REP9-144], WSCC [REP9-172]).
 - Assessment of the potential for noise impact on the HWNL and Historic Parks and Gardens therein (MSDC [REP9-152]).

12.3.27. In a similar vein, closing submissions from the Legal Partnership Authorities (LePAs) [REP9-151] highlighted four key concerns:

- lack of detail on the visual impacts of large parts of the built development;
- lack of effective controls to be confident that those shortcomings can be satisfactorily addressed post-consent through the discharge of requirements in particular given that the Applicant proposes a consultation process rather than a design approval process for many works based on compliance with its control documents;
- specific concerns about the impacts of particular elements, notably the visual impacts of construction compounds, the land-raising works at Pentagon Fields, and the visual impacts of the works at Car Park X (Work No. 31), Car Park Y (Work No. 30), North Terminal Long Stay Car Park (Work No. 32), Purple Parking (Work No. 33) and along the A23 corridor due to the loss of tree screening and wider impacts on the surrounding countryside; and
- lack of control over landscaping, the level of tree loss, and confidence that suitable replacement tree planting can be provided.

12.4. ExA's CONCLUSIONS ON LANDSCAPE AND TOWNSCAPE

12.4.1. Paragraphs 5.214 to 5.2.16 of the ANPS describe the considerations that should be included in an applicant's assessment of landscape and visual impacts. This includes an assessment of any likely significant landscape and visual impacts, referencing against any landscape character assessment and associated studies, as well as relevant policies based on these assessments in local development documents.

12.4.2. The assessment should include any significant effects during construction and the significant effects of the completed development and its operation on landscape components and landscape character, including assessment of any landscape and visual impacts as a result of the development, for example surface access proposals or aviation activity. The assessment should also include the visibility and conspicuousness of the preferred scheme during construction and the presence and operation of the preferred scheme and potential impacts on views and visual amenity. Paragraphs 5.144-5.146 of the National Networks National Policy Statement (NNNPS) contain similar text.

12.4.3. The ExA considers that the Applicant has provided an adequate ES assessing such impacts, and as such, has met the requirements of the ANPS and the NNNPS.

12.4.4. The ExA is of the view that the initial visualisations provided in the ES were somewhat lacking in detail and quality, presenting fairly simple 'block' plans of the Proposed Development. However, further information submitted during the Examination, such as improved details in the oLEMP, DAS (and Design Principles) largely overcame such issues.

Construction/ Contractor Compounds

12.4.5. ExQ1.LV1.1 [PD-012] asked for further details on proposed construction/ contractor compounds, including likely lighting details, heights and colours of site cabins, stockpile heights and areas where the compounds may be visible from. Appendix A to the Applicant's response [REP3-098] provided a signposted table detailing the requested details for each of the seven identified compounds.

- Lighting – found in the ES Appendix 5.3.2 Code of Construction Practice [REP9-031], which details lighting principles and practices for all compounds. Longbridge Roundabout compound is singled out for particular consideration due to its location partially within the Church Road (Horley) Conservation Area.
- Heights (including stockpiles) – 6m or 25m depending on whether batching plans are required (Main compound and South Terminal Roundabout compound).
- Colours – not available but would be standard.
- Visibility – details provided for each compound. Car Park B compound likely to be visible from walkers on the Sussex Border Path, occupiers of vehicles on A23/ M23 Spur and staff and visitors to the airport.

12.4.6. The RBBC PADSS [REP9-166] appear to suggest that further details on the site layout of the proposed Car Park B compound are still sought (although the table entry is marked green). However, the information provided by the Applicant in [REP3-098] and associated documents (including R2, Phasing scheme) of the dDCO [REP10-004] provides sufficient comfort on this issue in the view of the ExA.

Pentagon Field

12.4.7. Pentagon Field (see Figure 12.2 below [AS-154]) lies on the eastern edge of the airport site and is surrounded on its northern and western sides by airport car parking areas. There is woodland to the south, and the B2036, Balcombe Road, on the east.

Figure 12.223: Pentagon Field



12.4.8. The field (Work No. 41) is proposed to be used as spoil receptor site, which would be subsequently landscaped. ExQ1.LV.1.1 asked for further details concerning the level of fill, footpath management, vegetation loss and mitigation, and maturity rates for planting belts. Details in response to these questions were provided in the answers to ExQ1 [REP3-097] with a scheme of landscape mitigation provided within the oLEMP [REP9-047].

12.4.9. The LePAs consider that there remains uncertainty and inconsistency around the proposals for the field [REP8-163], considering that while the Applicant's Note at D5

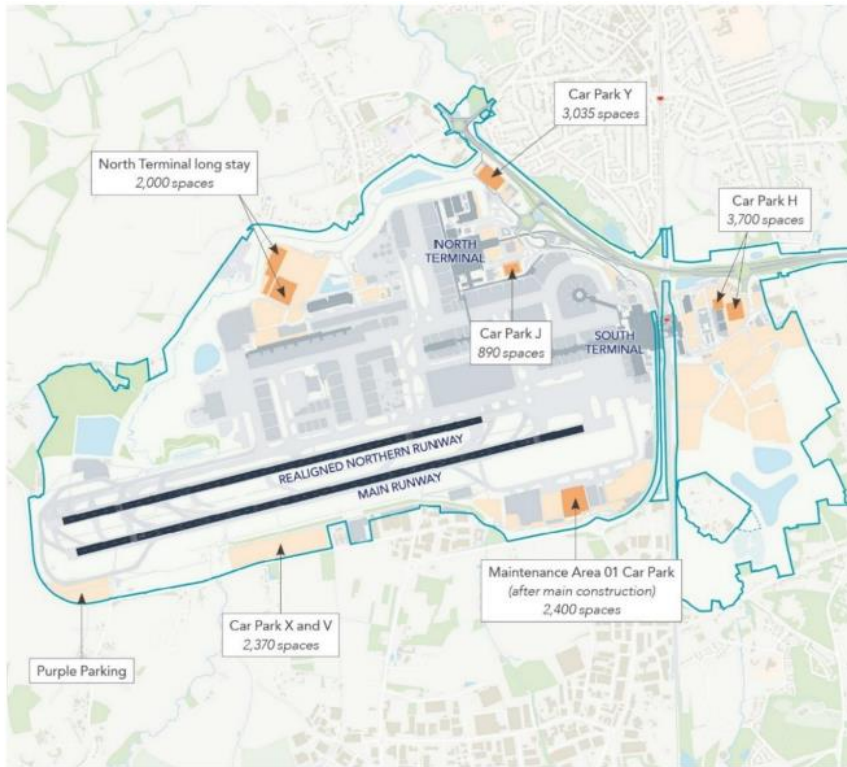
[REP5-078] was useful, fundamental concerns over the lack of control for soil deposition remain in the absence of parameter plans and details on final landform [REP6-116]. Concerns were also voiced over estimates of soil volume or where the 4m stated high re-profiling is being measured from given the 8.8ha size of the field, as well as flood risk and effects on Footpath 359Sy.

- 12.4.10. It was confirmed that 4.6ha of the 8.8ha field would be used for spoil arisings [REP5-078], to take account of existing utilities, flood risk and other environmental considerations. During construction temporary stockpiles would be created on the site not exceeding 3m for topsoil and 5m for subsoils (specified in the Soil Management Strategy, [APP-086], and secured under R29 of the dDCO [REP10-009] to be submitted to and approved by CBC). The final landform would be up to 4m higher than present (above ground levels) and detailed design would be secured under R8 of the dDCO [REP10-009]. The Design Principles document [REP9-062] provides parameters for the field, and would be secured as a certified document under Schedule 14 of the dDCO [REP10-004].
- 12.4.11. Given the above details, the ExA is content that there would be sufficient control for the relevant authorities through the dDCO to manage the use of Pentagon Field for spoil deposition and to ensure that the field is appropriately landscaped post construction. However, harm would be caused to the landscape character of the area while construction works were progressing, and mitigation measures such as reseeding and the proposed tree belt would take time to establish.

Purple Parking, North Terminal Long Stay Car Park, Car Park X, Car Park Y

- 12.4.12. We requested further information on landscaping details for the above car parks in our first written questions (ExQ1.LV.1.3). Car Park X and the North Terminal Long Stay Car Park (NTLSCP) are proposed to be decked car parks; purple parking would be a surface car park, and Car Park Y a Multi Storey Car Park (MSCP). Their general location is shown below [AS-154]:

Figure 12.324: Location of Car Parks



12.4.13. Indicative plans are contained within the DAS [AS-154], [REP7-059], [AS-155]. An example of one such indicative plan from [AS-155] is shown below.

Figure 12.425: Indictive Plans Car Park Y

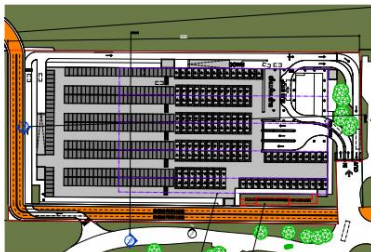


Figure 80. Indicative Site Plan of Multi-Storey Car Park



Figure 81. Airfield View of Car Park Y Multi-Storey Car Park and Flood Storage

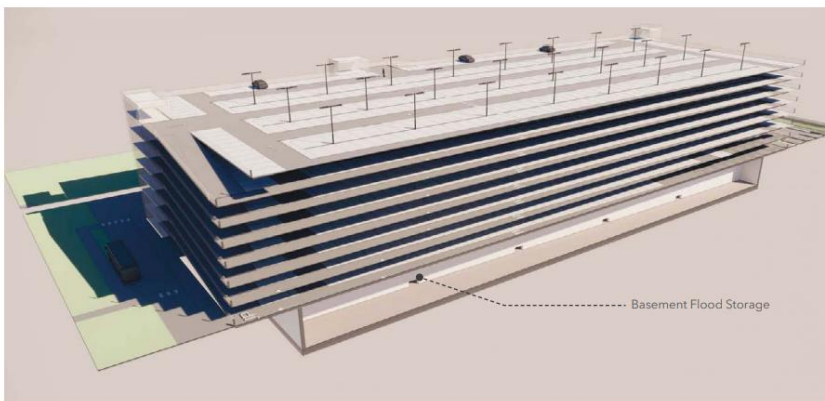


Figure 82. Indicative Massing of Car Park Y Multi-Storey Car Park and Flood Storage

- 12.4.14. The Design Principles appendix [REP9-062] to the DAS evolved through the Examination to provide further details on these car parks and the landscaping proposals for them. These are contained in Detailed Built Form Principle 43-55 and in summary cover the following details:
- Design of the car parks, including basic materials detail and open nature of the proposed design. Additional façade cladding to be considered at detailed design stage.
 - Car Park X to limit visibility to the listed Charlwood House would locate decked area in eastern section of site to the north of a retained hedgerow and retain other vegetation where possible, with re-planting proposed to southern boundary.
 - Car Park Y design would consider its prominent location and visibility. Detailed design would include soft landscaping provisions and retention/replacement of trees.
 - Lighting for decked and surface car parks.
 - Surface car parking designed to limit the extent of tree and vegetation along the site's southern boundary and incorporate new landscaping provisions.

12.4.15. The Applicant notes that all elements of the Proposed Development are subject to design control, through R4 of the dDCO. R4 states that no part of the development is to commence until CBC have been consulted on the design of that part, and that the design must be carried out in accordance with the Design Principles. Such consultation has a timescale of 8 weeks, although there is no compunction on the Applicant to amend their plans based on the results of that consultation or seek approval from CBC. However, the design (layout, siting, scale, and external appearance) of certain works, listed in Schedule 12, has to be approved by the relevant planning authority prior to their commencement. Schedule 12 of the dDCO does not include any car parks.

12.4.16. Design matters, including control, are considered further in Chapter 18, Good Design, where we conclude, subject to certain provisos, that the design of specific elements of the Proposed Development are adequately covered by the various design based principles and other documents.

Purple Parking

12.4.17. The Purple Parking area is set on the southwest fringe of the airport. At present this area is also an area for car parking, which has both surface and a decked area of car parking. The construction of the proposed 'end around west' taxiway as part of the Proposed Development would reduce this area fairly significantly. Lost car parking spaces would be accommodated within the Car Park X proposals and the reconfigured Purple Parking area would be surface parking only. We consider that the design controls within the Design Principles [REP9-062] and the consultation requirements under R4 of the dDCO would be adequate to control the design of this car park and ensure that no landscape or townscape harm would arise from this aspect of the Proposed Development.

North Terminal Long Stay Car Park

12.4.18. The NTLSCP is located towards the north-west edge of the airport and is an existing surface car park. The Proposed Development seeks to turn this car park into a decked car park with two levels. The car park is bordered by the River Mole on its north and west sides, and a reasonably thick tree belt and partial raised land/bund lies between the car park and the river valley. Concern is raised over the potential visual effect of the decked car park, including any effect on Charlwood Park

Farmhouse, a Grade II* listed building. In Chapter 13, the Historic Environment, we have concluded that the Proposed NTLSCP would cause harm to this listed building, and harm would equally be caused to the landscape. Such effects would lessen over time as landscaping matures, but it is likely that harm from higher level lighting would largely endure.

Car Park X

- 12.4.19. Car Park X lies on the southern edge of the airport site and is an existing reasonably substantial linear surface level car park. The Proposed Development would retain surface level parking on the western side of the car park, with the eastern end having two levels of decked car parking. There is currently a thin line of landscaping between the car park and Charlwood Road to the south and it is proposed to retain this aside from some removal for access. Charlwood House, a Grade II* listed building lies to the south of the western end of the car park, and additional planting is proposed to bolster the existing landscaping in the area closest to this heritage asset.
- 12.4.20. In Chapter 13, the Historic Environment, we have concluded that the Proposed Car Park X would cause harm to the setting of this listed building, and harm would equally be caused to the landscape, particularly from the height of the proposed decked car park and associated lighting.

Car Park Y

- 12.4.21. Car Park Y is located toward the northern fringes of the airport site and is a surface car park. The car park is surrounded by landscaping, with the A23 to the north and north east and residential housing beyond this. The proposed Car Park Y would be a substantial multi-storey car park, with indicative plans in the DAS [AS-155] showing a structure with around six levels of car parking above ground floor. As such, the structure would be highly visible not only to staff and visitors to the airport site, but also to people travelling on the A23 and potentially to the residential areas beyond. The scale and size of the car park would cause harm to the local landscape and townscape.

Schedule 12 Developments

- 12.4.22. At Issue Specific Hearing 8 (ISH8) we explored the list of developments contained within Schedule 12 of the dDCO [REP10-004]. As detailed above, such works would be subject to design approval from CBC, giving the local planning authority design control over the developments within this schedule. Given the harm that may be caused by some of the above car parks to character and appearance of the area, we suggested that the following car park developments should be added to this list:
- Car Park X; and
 - Car Park Y.
- 12.4.23. These car parks were subsequently included in the final dDCO [REP10-004]. Due to the above reasons, we have recommended one additional site in the rDCO – that of the NTLSCP (Work no 32). The Applicant was of the view that lighting of this site would be adequately controlled via the Design Principles [REP7-096]; however, the ExA note the proximity of the site towards the boundary of the site which we consider warrants extra control. Its inclusion within Schedule 12 would help to ensure that any adverse effect was minimised through good design.

- 12.4.24. All three car parks are on the fringes of the airport site and given the increases in height proposed are likely to have an adverse effect on the landscape and townscape of the area. While effects of the NTLSCP and Car Park X may lessen over time due to landscaping proposals (both those within the Design Principles and as would be imposed by virtue of being within Schedule 12) the scale of Car Park Y is such that landscaping would only soften views at a local level.

Living Conditions of Nearby Residents

- 12.4.25. The ExA's first written questions [PD-012] requested (LV.1.4) an assessment of the visual effects of the Proposed Development upon the living conditions of residents on the residential edges of Horley. The Applicant's response [REP3-097] provided such an assessment for the following areas:

- Gatwick Dairy Farm;
- apartment buildings, Longbridge Road, Horley;
- even numbers 74-80 Longbridge Road, Horley; and
- 275 Balcombe Road.

- 12.4.26. The assessment concludes that there would be moderate to minor adverse effect to all properties during the period 2024-2038 and largely negligible effects after this period. The exception to this was for No 74 Longbridge Road, for which the residents of are forecast to experience major adverse effects between 2024 and 2038.

- 12.4.27. Given the proximity of some elements of construction work of the Proposed Development, the ExA agrees with such conclusions. While provisions within the CoCP would assist in mitigating such effects, residual harm would remain.

A23 Margins, Replacement Planting and Crawley Borough Council Policy CH6

- 12.4.28. The ExA's first written questions [PD-012] required (LV.1.5) further information on mitigation from loss of vegetation caused by highway works. In response the Applicant [REP3-097] referred to the oLEMP [REP9-047 to REP9-052] and the Tree Survey Report and Arboriculture Impact Assessment. At D8, a note on Project Wide Habitat Loss and Replacement was submitted [REP8-098]. This aimed to provide a *"a single point of reference with respect to the types of habitat (including vegetation) that are anticipated to change as a result of the Project"*.
- 12.4.29. The Applicant was of the view that the replacement woodland, scrub and tree planting proposed within the surface access improvements would in time reinstate, to a large extent, the existing character of the road corridor.
- 12.4.30. With regards to CBC Policy CH6 and the tree balance, this matter has been covered within the Ecology Chapter of this Report (Chapter 14). In that Chapter we have concluded that, as the Applicant has acknowledged, there would be a net loss of area of woodland arising from the Proposed Development and that IPs concerns about the time delay between the loss of habitat and subsequent re-provision because of the length of the construction period are both justified and accepted.
- 12.4.31. We consider that with a revised version of R39 as proposed by the LePAs and as included in the rDCO, an appropriate response to replacement tree planting has been provided which would also be in accordance with CBC Policy CH9.

- 12.4.32. Notwithstanding the above matters, the ExA agrees with the views of SCC that tree planting and other vegetation-based mitigation would take time to establish. In the meantime, landscape harm would be caused as a result of the highway works proposed as part of the Proposed Development. The revised R39 would assist to a certain degree on this matter but harm would remain until landscaping matured.

Effects on Nationally Designated Areas

- 12.4.33. The ANPS notes that the duty to have regard to the purposes of nationally designated areas applies when considering applications for projects outside the boundaries of nationally designated areas which may have impacts within them, noting that the development should aim to avoid compromising the purposes of designation (para 5.222). The National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and NLs.
- 12.4.34. The Applicant's evidence, both in the ES and in response to written questions (ExQ1.LV.1.8 and ExQ2.LV.2.2) makes it clear that, on a worst-case basis, the Proposed Development would result in 20% in overflights over both the HWNL and the SHNL. Such a level would also be expected over the proposed extension to the SHNL. Flights would also increase over the SDNP, although planes would be at a higher level at this point. The ExA viewed the effect of planes currently over both NLs during its USIs [EV18-001].
- 12.4.35. A 20% increase in not insignificant and would likely be noticeable for receptors, particularly residents of the respective NLs. The effect may be less pronounced for visitors who would be less familiar with current levels of flights. The noise and visual effect of the increased planes would adversely affect the tranquillity of the NLs, albeit that such an effect would be reasonably limited, due to the height of the planes in general and the frequency of them.
- 12.4.36. Linked with this issue was the increased use (or otherwise) of WIZAD. Although it is clear that the Proposed Development would not lead directly to any new flight paths, there is the potential for new flight paths in the future depending on the results of Future Airspace Strategy Implementation South and more general Airspace modernisation in the South East. This issue is considered in more detail in Chapter 4, where we note that the CAA airspace change process is a separate regulatory regime to the DCO application and that this will consider the environmental implications of any such changes.
- 12.4.37. WIZAD would be used more as a result of the Proposed Development; with the Applicant acknowledging that as a worst-case flights would increase from around 32 flights per day under the Future Baseline in 2032, to some 39 flights per day under the Proposed Development. This is an increase of around 22% (rounded up) and would inevitably have an effect on the tranquil and dark qualities of the HWNL and on people's perception of sense of naturalness and clean air, particularly in those areas of the HWNL closest to the Airport and therefore where planes may be lower.
- 12.4.38. The ExA agrees that the duty under s85 of the Countryside and Rights of Way Act 2000 (and s245 of the Levelling Up and Regeneration Act), which in this case falls to be considered by the SoS, is important and pro-active. We also note the acknowledgment from the SDNP Authority [REP9-351] that this duty does not preclude decisions that are harmful to the National Park (or NLs).

12.4.39. The final SoCG between the Applicant and Natural England [REP9-090] confirms the following matters:

- that the methodology of the tranquillity assessment undertaken to consider effects upon nationally designated landscapes, including the HWNL, is satisfactory;
- that a robust assessment of the impacts of noise arising from the Proposed Development (including the worst-case scenario) upon the HWNL has been undertaken; and
- that the increase in overflights in the KDNL, SHNL and SDNP is negligible in terms of magnitude, resulting in a minor adverse impact upon the designated landscapes, and would not require mitigating.

12.4.40. In drawing all these points together, we conclude the following in relation to nationally designated areas:

- The increase in overflights that the Proposed Development would generate in the KDNL, SHNL and the SDNP is low. Additional harm would be minimal and does not require mitigation. This also applies to those areas within the proposed extension to the SHNL.
- Effects on the HWNL are slightly higher, given the proximity of this NL and the projected increase in flights from flight paths including WIZAD. However, adverse effects would still be low. The same conclusion applies to Historic Parks and Gardens within this NL.
- The Proposed Development would not compromise the purposes of designation of the relevant nationally designated areas. With respect to the duty under s85 of the Countryside and Rights of Way Act 2000 (and s245 of the Levelling Up and Regeneration Act 2023), the Proposed Development would conserve such areas, but would not enhance them.

ExA's Overall Conclusion on Landscape and Townscape

12.4.41. In reaching our conclusion we have considered the relevant sections of the ANPS, the NNNPS, the NPPF, Planning Practice Guidance, and relevant legislation and local policy as set out in Appendix A.

12.4.42. The ANPS and the NNNPS note that landscape effects depend on the nature of the existing landscape likely to be changed and the nature of the effect likely to occur. Development should aim to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. Great weight should be given to conserving landscape and scenic beauty in nationally designated areas, and the duty to have regard to the purposes of nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The development should aim to avoid compromising the purposes of designation.

12.4.43. Schemes should be designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation, and the SoS will judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development.

12.4.44. The NPPF contains similar wording and states that planning decisions should protect and enhance valued landscapes and that great weight should be given to conserving and enhancing National Parks and NLs.

12.4.45.

The ExA agrees with the conclusions of the ES in relation to the adverse effects of the Proposed Development. These are summarised in the table below.

Table 12.5: Significant Landscape/ Townscape Effects

Location/ Receptor	Significance of Effect	Notes
<i>Construction 2024-2029</i>		
Mole Valley Open Weald Character Area	Negligible to Major adverse	Significant effects north of Longbridge Roundabout
Occupiers of Hilton Hotel	Major to moderate adverse	Significant effects during construction phase reducing to not significant when neighbouring developments operational
<i>Construction and Operational 2030-2032</i>		
Mole Valley Open Weald Character Area	Major adverse (day) and moderate adverse (night)	-
Users of public open space at Riverside Garden Park and Church Meadows Horley	Major adverse (locally), moderate to negligible (generally)	
Occupiers of number 74 Longbridge Road Horley	Major adverse	Views from rear garden in summer when the change would be most noticeable
Occupiers of Hilton Hotel	Moderate to Major adverse	Significant effects during construction phase reducing to not significant when neighbouring developments operational
<i>2033-2038</i>		
Occupiers of number 74 Longbridge Road Horley	Major adverse	Views from rear garden in summer when the change would be most noticeable

12.4.46.

In addition to the above, the ExA has found that harm would be caused to landscape/townscape as a result of the proposed works at:

- Pentagon Field;
- NTLSCP;
- Car Park X;
- Car Park Y; and
- A23 highways works.

- 12.4.47. All such levels of harm would be moderate to minor and would lessen over time, with the exception of Car Park Y. The inclusion of the car parks into Schedule 12 would provide further control to the local planning authority and would enable harm caused in those areas to be managed and mitigated effectively.
- 12.4.48. In addition, some harm would be caused to the SHNL (and its proposed extension areas), the KDNL, and the SDNP. However, such harm would be minimal. Slightly higher, but still minor, levels of harm would be caused to the HWNL. Such levels of harm would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for the future baseline and the Proposed Development, as found in Chapter 4. While our conclusions in this respect widen the delta between the future baseline and the Proposed Development, the increased effect on the relevant nationally designated areas would be minimal and our conclusions on nationally designated areas remain.
- 12.4.49. In relation to cumulative effects, the ExA agrees that the contribution of the Proposed Development to the identified effects would be negligible to medium and would lessen over time. This is due to the minor nature of the elements of the Proposed Development which would contribute to the wider effects (primarily Pentagon Field and the contractor's compound for the South Terminal roundabout) when compared to the other contributory developments outlined in the ES.
- 12.4.50. The ExA ascribes a little harm on matters relating to Landscape and Townscape against the making of the Order.

13. HISTORIC ENVIRONMENT

13.1. INTRODUCTION

13.1.1. This Chapter considers the effect of the Proposed Development in relation to the historic environment, including designated and non-designated heritage assets.

13.2. POLICY BACKGROUND

13.2.1. The Infrastructure Planning (Decisions) Regulations 2010 state that when deciding an application which affects:

- a listed building or its setting;
- a conservation area;
- or a scheduled monument or its setting,

the relevant Secretary of State (SoS) must have regard to the desirability: of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses; of preserving or enhancing the character or appearance of the conservation area; or of preserving the scheduled monument or its setting respectively.

13.2.2. The Airports National Policy Statement (ANPS) states that the construction and operation of airports and associated infrastructure has the potential to result in adverse impacts on the historic environment above and below ground, noting that this could be as a result of the scale, form and function of the development, and the wider impacts it can create in terms of associated infrastructure to connect the airport to existing transport networks, changes in aircraft movements on the ground and in the surrounding airspace, additional noise and light levels, and the need for security and space to ensure the airport's operation (para 5.187).

13.2.3. Paragraph 5.198 states that in considering the impact of a proposed development on any heritage assets, the Secretary of State will take into account the particular nature of the significance of the heritage asset and the value that they hold for this and future generations. Paragraph 5.200 notes that when considering the impact of a proposed development on the significance of a designated heritage asset, the Secretary of State will give great weight to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting - given that heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (para 5.201).

13.2.4. Paragraph 5.203 states that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss.

13.2.5. Where the proposed development will lead to substantial harm to or the total loss of significance of a designated heritage asset, the Secretary of State will refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm, and where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paras 5.204-205).

13.2.6. Similar advice can be found in the National Networks National Policy Statement (NNNPS). National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

13.3. THE APPLICATION

13.3.1. The Applicant's assessment of matters relating to the Historic Environment is largely contained within Chapter 7 of the Environmental Statement (ES) [APP-032] and accompanying appendices.

STUDY AREAS

13.3.2. The ES describes various study areas for heritage assets, as follows:

- for buried archaeological remains, a zone 1km in all directions from the boundary of the Proposed Development;
- for the setting of heritage assets, a zone 3km in all directions; and
- to examine the impact of air noise and changes in flight routes on heritage assets, a methodology was prepared based on English Heritage advice [now Historic England] and as referred to in the ANPS. This assesses areas where there will be a predicted change of 1 decibel (dB) or more in the average summer daytime (Leq 16 hr) noise levels and where there will be a 25% change in the daytime N60 contour (flights where the maximum outdoor noise level is likely to exceed 60dB on an average summer day)
 - the output of this provides a 'negative noise change footprint' for areas where the predicted average summertime Leq 16 hr noise level change will increase by 1dB or more and where there will be a predicted 25% increase in the number of daytime flights for which the maximum outdoor noise level is likely to exceed 60dB, and a 'positive noise change footprint' where the opposite occurs.

BASELINE

13.3.3. The baseline was ascertained from the Historic Environment Records for West Sussex and Surrey, the National Heritage List for England, the Historic England Archive, by various archaeological geophysical surveys and two phases of archaeological trial-trenching at similar locations within the Proposed Development site. All of these are detailed within the ES Appendix 7.6.1: Historic Environment Baseline Report [APP-101].

13.3.4. The current airport was developed within a historic landscape comprising dispersed farmsteads with small, irregular fields bounded by hedges that were often heavily wooded. The London and Brighton Railway opened in 1841. This cut through the historic landscape on a north/south alignment and a station was provided at Horley. To the west of the railway, the former Gatwick Farm was replaced by a large house known as "Gatwick" or "Gatwick Manor", with land to the south-east of this house purchased in 1890 by the Gatwick Race Course Company. A racecourse was opened in 1891 along with a new station on the adjacent railway. An airfield was licensed at Gatwick in 1930, with the runway adjacent to the racecourse.

13.3.5. In 1935 a new railway station was opened further to the south and the following year the world's first circular passenger terminal was opened, linked to the new station by a subway. The terminal and part of the subway are still present but are outside the current operational airport – the former is a Grade II* listed building known as The Beehive. During World War Two the airfield and part of the racecourse was

requisitioned by the Air Ministry and used by the RAF. The country house known as Gatwick was demolished in 1950, and in the same decade Gatwick Airport was substantially expanded to become the newest airport for London.

- 13.3.6. There is one Conservation Area (ConsA) partially within the boundary of the Proposed Development; the Church Road ConsA on the southwest edge of Horley, to the north of the airport. The table below details the heritage assets (Listed Buildings (LB) at Grade II* and above, ConsAs, and Scheduled Monuments (SM)) within 1km of the Proposed Development.

Table 13.1: Heritage Assets Within 1km of the Proposed Development (CAs, SMs and LB at Grade II* and Above)

Name	Asset description
Church Road Horley	ConsA
Church of St Bartholomew, Horley	Grade I LB
Tinsley Green	SM
Thunderfield Castle	SM
Church of St Nicholas, Charlwood	Grade I LB
Church of St Bartholomew, Burstow	Grade I LB
Charlwood House	Grade II* LB
Gatwick Manor Inn	Grade II* LB
Church of St Michael and All Angels, Lowfield Heath	Grade II* LB
Rowley Farmhouse	Grade II* LB
The Beehive	Grade II* LB
Charlwood Park Farmhouse	Grade II* LB
The Providence Chapel, Charlwood	Grade II* LB
Manor House, Charlwood	Grade II* LB
Burstow	ConsA
Charlwood	ConsA
Massetts Road, Horley	ConsA

- 13.3.7. There are some 79 Grade II listed buildings within 1km of the Proposed Development, and around 135 Grade II listed buildings within 3km, with many of these within Charlwood or Horley. Within these are Wing House and Edgeworth House, two Grade II (but interlinked) buildings within the airport site. A further three Grade II* buildings lie between 1 and 3 km of the site boundary, and there are a number of locally listed buildings within 1km of the site, including Gatwick Manor Lodge on the northwestern edge of the Proposed Development.

- 13.3.8. Archaeological works have taken place within the boundary of the site in recent years in the northwest of the airport and during construction of flood and pollution lagoons to the south-east. West Sussex areas of enhanced archaeological interest

are known as Archaeological Notification Areas (ANAs) and are classed as red or amber depending on their perceived importance. Similar areas in Surrey are named Areas of High Archaeological Potential (AHAPs) and County Sites of Archaeological Interest (CSAIs). Within the boundary of the site there are four Red ANAs and one AHAP. There are several additional red and amber ANAs within 1km of the site boundary and two AHAPs at Charlwood, four to the south-west of Horley and two at Burstow, as well as a CSAI around the SM of Thunderfield Castle.

13.3.9. Three noise sensitive designated heritage assets within the area where noise is expected to increase further afield (under the negative noise footprint) were identified:

- Grade II listed Church of St John the Baptist, Capel
- Grade II listed Quaker Meeting House with attached cottage, Capel
- Grade II listed Lowfield Heath Windmill south-east of Charlwood

13.3.10. Noise is expected to decrease at the following sites:

- Grade II* listed Church of St Michael and All Angels, Lowfield Heath
- Grade II Lowfield Heath War Memorial

13.3.11. Consented/permitted development works under the future baseline are not expected to result in any change to the historic environment.

CONSTRUCTION PHASE

Initial Construction Period 2024 to 2029

13.3.12. The following works in the ES [APP-032] are predicted to have a significance of effect higher than negligible:

Table 13.2: Significance of Effect to Heritage Assets During Construction 2024 to 2029

Location/Receptor	Significance of Effect	Notes
Museum Field flood compensation area (Archaeological remains)	Major Adverse	To be offset through programme of archaeological investigation
Car Park X flood compensation area (Archaeological remains)	Moderate Adverse	To be offset through programme of archaeological investigation
Removal of pond A and creation of new section of River Mole valley (Deposits of geoarchaeological interest)	Minor Adverse	-
New water treatment works (Archaeological remains)	Major Adverse	To be offset through programme of archaeological investigation

Location/Receptor	Significance of Effect	Notes
Noise bund and wall (Archaeological remains)	Minor Adverse	-
Environmental mitigation land at Museum Field (Archaeological and geoarchaeological remains)	Major Adverse	Mitigation potentially through detailed design but if not then to be offset through programme of archaeological investigation
Grade I listed Church of St Bartholomew (Horley)	Minor Adverse	Mitigated through Code of Construction Practice (CoCP)
Grade II* listed Church of St Michael and All Angels	Minor Adverse	Mitigated through CoCP

CONSTRUCTION AND OPERATIONAL PHASE

2030 to 2032

- 13.3.13. The following works in the ES [APP-032] are predicted to have a significance of effect higher than negligible:

Table 13.3: Significance of Effect to Heritage Assets During Construction and Operation 2030 to 2032

Location/Receptor	Significance of Effect	Notes
Central Area Recycling Enclosure (CARE) facility (Archaeological remains)	Minor Adverse	-
Setting of Church Road ConsA	Minor Adverse and Moderate Adverse	Effect would reduce over time for moderate adverse effects
Longbridge Roundabout Highway Improvements (Archaeological remains)	Minor Adverse	-
Car Park B contractor compound and Environmental mitigation works (Archaeological remains)	Major Adverse and Major Adverse	Appropriate mitigation may be implemented ahead of the works to establish the compound but if not then effect could be offset through a programme of archaeological investigation.
Church Road ConsA	Minor Beneficial	Due to environmental mitigation works

Location/Receptor	Significance of Effect	Notes
Grade I listed Church of St Bartholomew (Horley)	Minor Adverse	Mitigated through CoCP
Grade II* listed Church of St Michael and All Angels	Minor Adverse	Mitigated through CoCP
Grade I listed Church of St Nicholas (ground noise)	Minor Adverse	-
Grade II* listed Manor House, Charlwood (ground noise)	Minor Adverse	-
Grade II* listed Providence Chapel, Charlwood (ground noise)	Minor Adverse	-

2032 to 2038

- 13.3.14. The following works are predicted to have a significance of effect higher than negligible in the ES [APP-032]:

Table 13.4: Significance of Effect to Heritage Assets During Construction and Operation 2032 to 2038

Location/Receptor	Significance of Effect	Notes
Grade I listed Church of St Nicholas (ground noise)	Minor Adverse	-
Grade II* listed Manor House, Charlwood (ground noise)	Minor Adverse	-
Grade II* listed Providence Chapel, Charlwood (ground noise)	Minor Adverse	-

- 13.3.15. It was concluded in the ES that for the three heritage assets considered under the negative noise footprint that, in part due to aircraft noise lessening due to fleet mix changes, and as considered against the future baseline proposals, the noise changes at these three locations would not affect the significance of such assets.
- 13.3.16. Written schemes of investigation (WSIs) for post consent archaeological investigations for Surrey and West Sussex were submitted during the Examination [APP-105] [APP-106], and Requirement (R) 14 of the draft Development Consent Order (dDCO) submitted prior to the commencement of the Examination [AS-004] stated that works must be carried out in accordance with the WSIs. The WSIs are also certified documents under Schedule 12 of the Order.

13.4. ISSUES CONSIDERED DURING THE EXAMINATION

- 13.4.1. Relevant Representations (RR) concerning the historic environment largely considered heritage assets under existing flight paths which have the potential to have increased frequency of flights and therefore noise/disturbance, and the effect of this on their settings. Such comments covered heritage assets such as Hever Castle (Grade I), Penshurst Place (Grade I), Chartwell (Grade I), and Chiddingstone Castle (Grade I).
- 13.4.2. The joint Crawley Borough, Horsham and Mid Sussex Districts and the West Sussex County Councils Local Impact Report (LIR) (the West Sussex LIR) [REP1-068] raised concerns over archaeological impacts at various sites within the operational boundary, including Car Parks Y and H and the North Terminal long stay car park, the Motor Transport Facilities, the water treatment works, car rental facility at the south terminal, the CARE, north of Hangar 7 and various construction compounds and airfield works (with the apron, south of runways, west end of runway). The Councils wished to see further appropriate evaluation or evidence for all such areas.
- 13.4.3. In terms of other heritage assets, the Councils wished to see further information and mitigation provided for Charlwood House and Charlwood Park Farmhouse to understand physical separation between the assets and airfield works and further design details. Clarification was requested for elements of the CoCP and the West Sussex WSI.
- 13.4.4. Kent County Council's (KCC) LIR [REP1-079] notes that there is no mention of Kent in the ES and considers that it is essential that there is a reasonable assessment of the historic environment of west Kent, noting that low flying aircraft, increased flight numbers, increase in pollution from planes and increased road traffic through Kent may all have an impact upon designated and non-designated heritage assets in the county. Historic buildings such as Squerryes Court, Chiddingstone, Chartwell and Penshurst Place, as well as ConsAs in Markbeech, Chiddingstone, Hoath Corner and Royal Tunbridge Wells were all raised, as well as the impact on historic landscapes.
- 13.4.5. The LIR of Surrey County, Mole Valley and Tandridge District Councils (the Surrey LIR) [REP1-097] notes that the ES baseline report provides a thorough overview of heritage assets within their respective areas. They suggest amendments to the WSI for Surrey concerning sampling strategies and to R(14) of the dDCO to clarify responsibilities. They also note that the proposed enhancements to Church Meadows provide an opportunity to enhance the setting of the Church of St Bartholomew (Horley). Further detail of such mitigation was requested. A comment on the process for noise insulation of listed buildings was also made.
- 13.4.6. At Open Floor Hearing 3 (OFH3), Hever Castle stated that anything that increases planes over Hever Castle, a grade I listed asset and park and garden, should be avoided.
- 13.4.7. At D1 a Statement of Common Ground (SoCG) with Historic England (HE) was submitted [REP1-035]. This stated:
- HE supported the thoughtful approach taken to undesignated heritage assets;
 - under the scheme there is the potential for harm to a range of assets, including undesignated archaeological assets to the east of the airport, less than substantial harm to the grade II* listed Charlwood Park Farmhouse and a small

number of grade II listed buildings on the edge of the airport, and less than substantial harm to Thunderfield Castle. There is also the potential for impacts to the setting of heritage assets as a result of noise increases;

- any harm will require clear and convincing justification;
- HE is content that no permanent significant harmful impacts to high graded heritage assets from increased aircraft noise would result from the Proposed Development;
- it is likely that the harm to undesignated archaeological assets could be mitigated by the enhanced understanding that could be derived from a detailed archaeological study of the area; and
- works in the vicinity of the Church Road ConsA are unlikely to result in significant harm to the setting of this ConsA. Mitigation works such as planting and enhanced public access would cancel out harm.

13.4.8. Replying to the RRs and the OFH, the Applicant [REP1-048] noted that the assessment of air noise on heritage assets was carried out in accordance with HE guidance, as referred to in the ANPS (para 5.194). For the various heritage assets raised, it also noted that the predicted changes to the average summer daytime noise level (Leq 16 hr) with the Proposed Development in place would be less than 1dB, which is an imperceptible level of change. Predicted changes in road traffic are all rated as negligible and would not result in any harmful effect on the significance of any heritage asset.

13.4.9. In response to the Surrey LIR the Applicant amended R14 of the dDCO, the WSI submitted at D2 [REP2-017] and submitted an Update Note [REP2-031] on the noise insulation scheme for listed buildings. Referring to the Sussex LIR, the Applicant stated that it would prepare a report on the history of the airport and likely impacts of airport development on buried archaeology and that it would review the excavation areas at Museum Field and Brook Farm. It noted the SoCG with HE regarding the Grade II* listed Charlwood House and stated that the Design Principles document (see Chapter 18 Good Design) had been updated to reflect the need to minimise the visibility of Car Park X to Charlwood House.

13.4.10. In response to the KCC LIR the Applicant stated that it had assessed the likely impacts of air noise on designated heritage assets using the methodology commissioned by HE and published in 2014 (Aviation Noise Metric). It noted that this metric is named in paragraph 5.194 of the ANPS as the appropriate guidance document for the assessment of air noise impacts on heritage assets. It noted that this metric found that the Proposed Development would not result in any impacts on the significance of designated heritage assets in Kent, and that this was confirmed in the SoCG with HE [REP1-035], who stated that:

“On the basis of this assessment we are content that no permanent significant harmful impacts to high- graded designated heritage assets from increased aircraft noise would result from the scheme proposals”.

13.4.11. Through ExQ1 [PD-012] we asked a range of questions of the Applicant, centred around:

- archaeology and the adequacy of the WSIs;
- the specific heritage assets of Charlwood House and Charlwood Park Farmhouse and the proposed car parks near to them;
- the Church Road ConsA;
- the Burstow ConsA;
- upon places of worship within Charlwood;
- noise insulation to listed buildings;

- effects on Pentagon Field, and;
- air noise effect on the setting of heritage assets.

- 13.4.12. In response the Applicant noted that: amendments had been made or were proposed to the respective WSIs (Surrey, and West Sussex); the Design Principles had been altered to provide more detail for Pentagon Field, Charlwood House and Charlwood Park Farmhouse (with a nurseery housed at the latter now being potentially included within the noise insulation scheme); details over the HE metric used for noise sensitive assets; and further information provided for Church Road ConsA and the noise insulation scheme.
- 13.4.13. In response to previous queries, at D6 a report was submitted by the Applicant titled 'The Historical Development of Gatwick Airport Including a Review of the Extent of Past Ground Disturbance' [REP6-070]. At D7 the Legal Partnership Authorities (LePAs) [REP7-110] welcomed this report and stated that discussions were ongoing.
- 13.4.14. Responses to questions at ExQ2 [REP7-085] centred on the number of likely flights at Hever Castle, queries over the WSIs and details of proposed heritage outreach programme.
- 13.4.15. At D9 final WSIs for Surrey and West Sussex were submitted [REP9-045] [REP9-046]. These both included details of public outreach programmes.
- 13.4.16. Relevant to the historic environment, at the same deadline SoCGs with Crawley Borough Council (CBC) [REP9-066], Mid Sussex District Council (MSDC) [REP9-074], Mole Valley District Council [REP9-076], Reigate and Banstead Borough Council (RBBC) [REP9-078], Surrey County Council (SCC) [REP9-080], West Sussex County Council (WSCC) [REP9-085] were submitted. Relevant Principal Areas of Disagreement Summary Statement [PADSS] were also submitted for CBC [REP9-133], MSDC [REP9-152], RBBC [REP9-166], and WSCC [REP9-172].
- 13.4.17. In summary the outstanding areas of disagreement in these documents were:
- a recommendation for pre-construction archaeological trial trenching at Works No 28 (Car Park H) (CBC, [REP9-133], WSCC [REP9-172];
 - adequate safeguarding for Charlwood House and Park Farmhouse (CBC, [REP9-133]; and
 - assessment of the potential for noise impact on the High Weald AONB (now National Landscape) and Historic Parks and Gardens therein (MSDC [REP9-152].

13.5. ExA's CONCLUSION ON HISTORIC ENVIRONMENT

- 13.5.1. The ExA considers that the Applicant has adequately provided a description of the significance of the heritage assets that would be affected by the Proposed Development and the contribution of their setting to that significance. The Applicant has also provided detailed studies on heritage assets affected by noise, light and indirect impacts based on HE guidance. In this regard the ExA considers that the application meets the requirements of the ANPS, the NNNPS, the NPPF and PPG, as well as relevant legislation and local policy as set out in Appendix A. Our conclusions have also taken into account the Infrastructure Planning (Decisions) Regulations 2010.

Archaeology

- 13.5.2. The respective final WSIs for Surrey [REP9-045] and West Sussex [REP9-046] underwent various iterations and changes during the Examination and were informed by various documents, including the application documents and also the submission and incorporation of 'The Historical Development of Gatwick Airport Including a Review of the Extent of Past Ground Disturbance' [REP6-070]. At the close of the Examination, aside from the outstanding queries over Car Park H from CBC and WSCC, all details were agreed.
- 13.5.3. The report on the historical development of the Airport [REP6-070] is a detailed and comprehensive document which the ExA considers useful for the application. Details within this document note that while the survival of archaeological features in the area of Car Park H cannot be ruled out, they would likely be truncated due to the removal of upper parts of features (as the site is a surface car park already) and fragmentary further down from deeper disturbances such as drainage.
- 13.5.4. The ExA notes that the Applicant provided confidential information on electrical services and drainage in this area. Although not submitted to the Examination the ExA has been given no reason to doubt the veracity of this information and therefore agrees with the Applicant's conclusions in respect of this site. The area is likely to have low archaeological potential, and, as such, the ExA does not consider that pre-construction trial trenching is required.
- 13.5.5. R14 of the dDCO [REP10-004] ensures that works within the Proposed Development are carried out in accordance with the WSIs and the WSIs themselves are also certified documents under the terms of the dDCO. The ExA considers on the basis of the above that such documents provide adequate control and mitigation for archaeological purposes.

Other Heritage Assets

- 13.5.6. The ExA agrees with the conclusions of the ES, the Applicant, and HE except for Charlwood House and Charlwood Park Farmhouse. While the Design Principles document [REP9-062] was updated and improved during the Examination and Chapter 18 recommends that further design details are included in respect of proposed works near to Charlwood Park Farmhouse, the ExA considers that harm will still occur to these heritage assets. The construction of substantial new car parks in their vicinity will adversely affect their setting visually and audibly during construction. While visual effects will lessen over time with the maturation of planting, harm will still occur.
- 13.5.7. The ExA notes the views of KCC and of individual IPs, including Hever Castle, over the potential effects of increased air traffic over significant heritage assets in Kent and under flight paths. Such heritage assets were visited during the Examination and the ExA noted the frequency and noise effects of the current operations from the Airport. However, the Applicant has complied with the relevant sections of the ANPS and has correctly carried out the appropriate HE noise metric test. On the basis of the results of this test and the conclusions of HE, the ExA considers that the Proposed Development will not increase harm to the setting of such heritage assets.
- 13.5.8. Assessment of impacts for noise impact on the High Weald National Landscape are considered in Chapter 12, Landscape and Townscape. Historic Parks and Gardens within this National Landscape were not defined within the Examination and the ExA considers that the noise metric test also applies in this respect.

13.5.9. The ExA considers that, notwithstanding mitigation where possible, harm will occur to various listed buildings and ConsAs, as detailed below:

Table 13.5: The ExA’s Consideration of Heritage Assets Where Outstanding Harm Will Occur

Name of asset	Grade	Reason	Permanent/temporary
Church of St Bartholomew (Horley)	I	Construction	Temporary
Church of St Michaels and All Angels	II*	Construction	Temporary
Church of St Nicholas, Charlwood	I	Ground noise	Permanent
Manor House, Charlwood	II*	Ground noise	Permanent
Providence Chapel, Charlwood	II*	Ground noise	Permanent
Charlwood House	II*	Visual effects from Car Park X	Permanent but lessening over time
Charlwood Park Farmhouse	II*	Visual effects from NT Car Park	Permanent but lessening over time
Thunderfield Castle	SM	Construction	Temporary
Church Road	ConsA	Construction	Temporary

13.5.10. The harm to all the assets identified in Table 5 would be less than substantial, and the ExA is satisfied that the Proposed Development would not result in substantial harm to any designated or non-designated heritage assets.

13.5.11. Within the range of less than substantial, harm would be at the lower end of the scale to all identified assets (with some only being affected temporarily). Nevertheless, where there is harm, the SoS must give that harm considerable importance and weight.

13.5.12. Such levels of harm would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for the future baseline and the Proposed Development, as found in Chapter 4.

13.5.13. Due to the number of assets identified where harm occurs, the ExA ascribes moderate harm to matters relating to the historic environment against the making of the Order.

13.5.14. This harm requires clear and convincing justification and is weighed against the public benefits of the Proposed Development in Chapter 20 of this Report, in the planning balance.

14. ECOLOGY

14.1. INTRODUCTION

14.1.1. This Chapter considers the effects of the Proposed Development on ecology and nature conservation. It includes effects on protected species and consideration of sites of national, regional and local interest. The effects on European sites in the context of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) are separately considered in Chapter 19 of this Report although there are some linkages with the content of this Chapter. Ecology was identified within the Initial Assessment of Principal Issues (IAP) (Annex C [PD-009]). It was also the subject of oral examination at Issue Specific Hearing (ISH) 8 [EV17-002 to EV17-005 and EV17-010 to EV17-013].

14.2. THE APPLICATION

OVERVIEW

14.2.1. Environmental Statement (ES) Chapter 9: Ecology and Nature Conservation [APP-034] assessed the effects of construction and operation of the Proposed Development on the natural environment of the application site and surrounding receptors. A number of supporting figures and appendices were also submitted including a number of ecological surveys. A full list can be found in Table A1 of Appendix A of this Report.

14.2.2. ES Chapter 9 and its associated figures and appendices should be read as part of the wider ES with particular reference to ES Chapter 11: Water Environment [APP-036], Chapter 12: Traffic and Transport [APP-037], Chapter 13: Air Quality [APP-038] and Chapter 14: Noise and Vibration [APP-039].

14.2.3. The key measures being undertaken to mitigate and compensate any effects of the Proposed Development on habitats and the species they support were contained in an Outline Landscape and Ecology Management Plan (oLEMP) [APP-113], Code of Construction Practice (CoCP) [APP-082] and Biodiversity Net Gain (BNG) Statement [APP-136]. These documents were subsequently updated throughout the Examination, the final versions of which can be found at [REP9-047] (oLEMP), [REP9-031] (CoCP) and [REP8-076] (BNG Statement). At Deadline (D) 8 the Applicant submitted a Register of Environmental Actions and Commitments (REAC) [REP8-121] extracting the key committed mitigation and compensation measures which are set out in environmental control documents.

14.2.4. ES Chapter 9 (Table 9.13.1, [APP-034]) detailed the assessment of likely significant effects (LSE) predicted to arise from the Proposed Development on the following categories of ecological receptors:

- statutory designated sites;
- non-statutory designated sites;
- ancient woodland;
- habitats of principal importance and species of principal importance;
- protected species; and
- notable habitats and species.

ECOLOGICAL CHARACTER OF THE AREA

Existing Site and Surroundings

- 14.2.5. The existing land within the Order Limits largely comprises low value habitats associated with the airport and its infrastructure. The Gatwick Airport site consists of large areas of hard standing and amenity grassland with areas of ornamental shrub and tree planting. These areas are predominantly located within the centre of the project site with areas of higher value habitats to the east and west [APP-034].
- 14.2.6. A biodiversity area east of the airport (referred to as the Land East of the Railway Line (LERL) biodiversity area) comprises a variety of grasslands with trees, woodland and hedgerows. The Gatwick Stream flows through the site and larger areas of semi-natural broadleaved woodland surround it, including areas of ancient woodland. Existing car parking areas to the north include linear strips of woodland which connect to the woodland to the south [APP-034].
- 14.2.7. The River Mole corridor (referred to as the North West Zone biodiversity area) comprises the River Mole, a variety of associated damp and dry grasslands and wetland areas. Semi-natural broadleaved woodland is present in the western part of the airport including an area of ancient woodland, Brockley Wood [APP-034].
- 14.2.8. Smaller areas of higher value habitat are present, for example Riverside Garden Park to the north which comprises semi-natural broadleaved woodland interspersed with areas of grassland, tall ruderal vegetation and the Gatwick Stream flows through it. Crawler's Field to the south of the airport comprises grassland and semi-natural broadleaved woodland [APP-034].

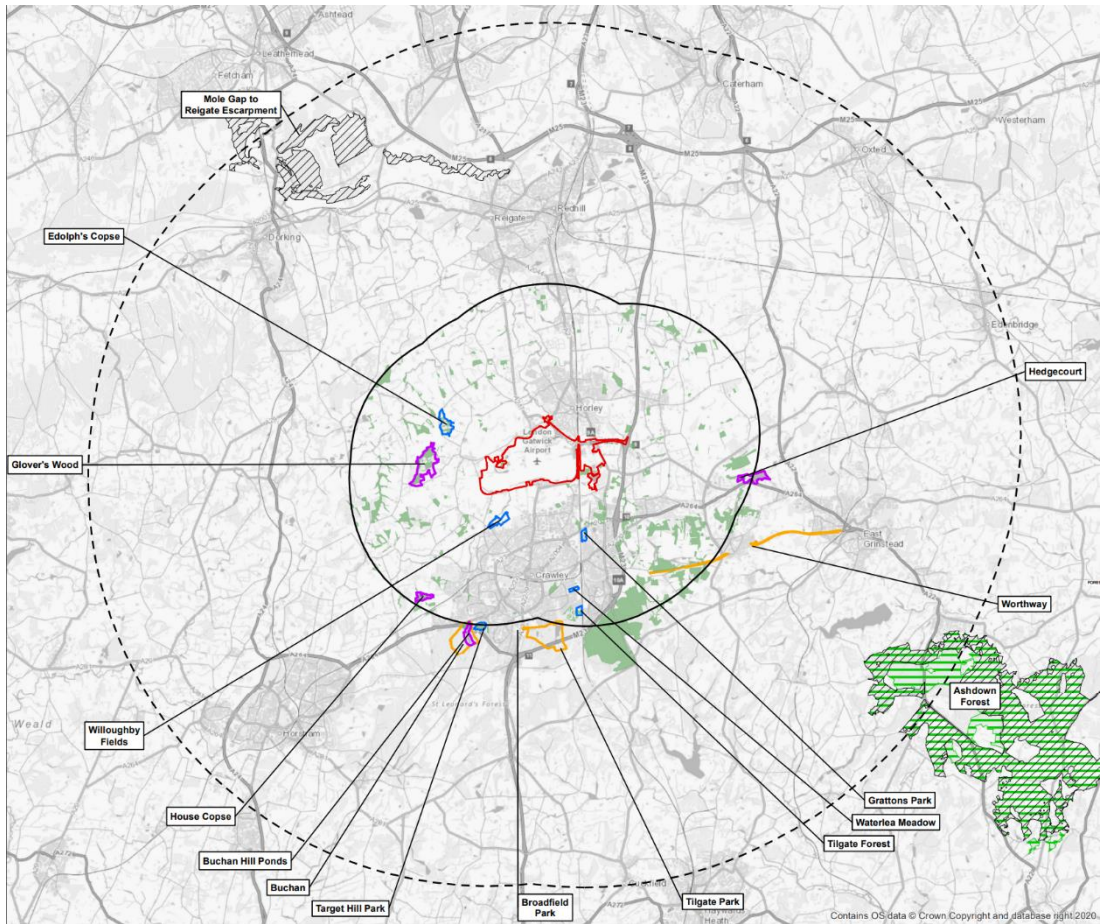
Proposals

- 14.2.9. The Proposed Development would require the removal of hedgerow and loss of plantation woodland and scrub habitat. The impact of this is discussed in detail in this Chapter.
- 14.2.10. New areas of higher value habitats would be created within two mitigation areas located to the west of the River Mole (Museum Field) and the north-east of the Longbridge Roundabout. Landscaping undertaken as part of the construction works would also reinstate and introduce new habitats including the diverted River Mole, which would increase the length of the water course and the riparian habitat along it, and the Museum Field flood compensation area which would create a variety of damp and dry grasslands [APP-034].
- 14.2.11. Tree planting would be undertaken along the new highway alignment to contribute to compensation for the woodland that would be lost in the construction phase, and flood mitigation features would be created along it introducing more damp and wet habitats to the Proposed Development site [APP-034].

DESIGNATED SITES AND AREAS OF ANCIENT WOODLAND

- 14.2.12. A list of the statutory designated sites and distances from the Order Limits can be found in of ES Chapter 9 (paras 9.6.2 to 9.6.5, [APP-034]). Figures 14.1 and 14.2 below depict the statutory and non-statutory designated sites in relation to the site location (extracts from ES figures 9.6.1 and 9.6.2 [APP-048])

Figure 14.126: Statutory Designated Sites



- retention of a strip of woodland between the Gatwick Stream and new highway alignments/ water attenuation area to retain a dark corridor and well-used bat foraging and commuting route;
- creation of woodland belts in Pentagon Field to compensate for woodland and trees lost in other parts of the site in a location that extends existing woodland and enhances connectivity;
- an existing non-native hedgerow comprising Leyland cypress between the A23 London Road and Perimeter Road East will be replaced with a native species-rich hedgerow; and
- woodland creation to compensate for loss of existing habitat.

14.2.16. The Proposed Development also includes works to the River Mole including the creation a new section of river channel and establishment of native flora and fauna providing high value habitats. ES Chapter 9 concludes that this would result in long-term moderate beneficial significant effects (Table 9.13.1, [APP-034]).

SPECIES

14.2.17. ES Chapter 9 [APP-034] confirms that the removal of woodland habitats in the initial construction period (2024-2029) would result in the temporary displacement of breeding birds. The loss of suitable breeding sites would result in LSEs. The habitat loss would also result in LSEs on the bat and invertebrate assemblages.

14.2.18. The mitigation proposed is summarised in REAC commitments ENC011, ENC012, ENC013, ENC014, ENC015, ENC037 and ENC041 [REP8-121], which state that the following would take place:

- suitable habitat for breeding birds will be cleared between October and mid-February (outside of the breeding bird season) as far as practicable;
- additional surveys will be undertaken prior to construction commencing to determine the presence or absence of Schedule 1 species; peregrine, little ringed plover and firecrest;
- any nest of a Schedule 1 species found to be active during construction works will be protected by a suitably sized buffer;
- a scheme of new bird boxes will be implemented at the start of construction;
- where trees with low potential bat roost features require removal, those trees will be subject to a supervised soft-felling methodology;
- where trees with medium or high potential bat roost features require removal, those trees will be subject to climbing inspections and/ or dusk emergence/ dawn re-entry surveys as appropriate to inform where further mitigation is required;
- the retention of a strip of woodland between the Gatwick Stream and new highway alignments/ water attenuation area to retain a dark corridor and well-used bat foraging and commuting route; and
- any disturbance or removal of bat roosts identified during pre-construction surveys will be mitigated under an appropriate licence from Natural England (NE).

14.2.19. In addition, ES Chapter 9 (paras 9.9.143 to 9.9.147, [APP-034]) explains that during the initial construction phase a main badger sett would be closed, using appropriate methods and timings, to allow the Proposed Development to be constructed an artificial sett would be created within the badger social group's territory resulting in a minor adverse and therefore not significant effect.

BIODIVERSITY NET GAIN

- 14.2.20. ES Chapter 9 [APP-034] states that the Proposed Development provides approximately 20% BNG in relation to the area of the site where physical development would take place. Both the ES and the BNG Statement [REP8-076] are clear that the assessment compared the baseline conditions within the area of habitats to be lost (230.09 hectares (ha)), rather than all land within the Order Limits (735ha), with the post-development score within those areas to get an overall net gain score.

SUMMARY OF SIGNIFICANT EFFECTS

- 14.2.21. Table 9.13.1 of ES Chapter 9 (pages 138 to 163, [APP-034]) summarises all the residual effects, taking account of the mitigation and compensation measures, associated with each phase of the Proposed Development. All the adverse and beneficial significant effects for each phase are consolidated in the following list.
- Construction Period 2024-2029 (construction effects up to first opening of Northern Runway):
 - a moderate significant adverse effect on semi-natural broadleaved woodland, mature broadleaved trees, broadleaved plantation woodland and associated scrub due to long term loss of woodland and some loss of connectivity;
 - significant adverse effects on the breeding bird assemblage due to loss of nesting sites and foraging habitat (minor significant effects on reed bunting and moderate significant effects on other species);
 - a moderate significant adverse effect on the assemblage of bat species due to the long-term loss of woodland and shrubs that form a linear corridor through the north of the Order Limits;
 - a moderate significant adverse effect on the terrestrial invertebrate assemblage due to habitat loss;
 - a moderate significant beneficial effect on hedgerows due to replacement planting of greater biodiversity value; and
 - a moderate significant beneficial effect on watercourses due to the creation of a new section of the River Mole providing high value habitats.
 - Construction and Operational Effects 2030-2032
 - a moderate significant adverse effect on semi-natural broadleaved woodland, mature broadleaved trees, broadleaved plantation woodland and associated scrub due to continued absence of woodland due to new planting being immature;
 - moderate significant adverse effects on the breeding bird assemblage due to loss of nesting sites for a range of species; and
 - a moderate significant adverse effect on the assemblage of bat species due to the loss of semi-natural broadleaved woodland.
 - Construction and Operational Effects 2033-2038
 - a moderate significant adverse effect on semi-natural broadleaved woodland and mature broadleaved trees due to continued absence of habitat; and
 - a moderate significant adverse effect on the assemblage of bat species as new woodland would not have matured sufficiently.
 - Long-term forecast year 2047

- no significant adverse effects identified as new areas of semi-natural broadleaved woodland would be semi-mature.

14.3. ISSUES CONSIDERED DURING THE EXAMINATION

BIODIVERSITY NET GAIN

Baseline

- 14.3.1. The Joint Surrey Councils (JSCs) state in their LIR (para 7.47, [REP1-097]) that although not a legal requirement, due to the long term and large-scale impacts of habitat loss the Applicant should be delivering BNG in the local, regional and national interest. In response to ExQ1.EN.1.5 [REP3-090] on this matter the Applicant referenced its approach set out in the BNG statement [APP-136] and highlighted that the Proposed Development would deliver over 20% net gain.
- 14.3.2. There was however concern raised by the Legal Partnership Authorities (LePAs) [REP4-063] (also highlighted in Section 9.10 of the Joint West Sussex Local Authorities (JWSLAs) Local Impact Report (LIR) [REP1-068] and the JSCs LIR [REP1-097]) that unless the BNG baseline considered all habitat within the Development Consent Order (DCO) application boundary, the Applicant cannot claim that 20% BNG is being achieved. The LePAs concern was that the scheme may deliver substantially less (or even a loss) if all land assessed is within the Order Limits.
- 14.3.3. NE confirmed in its RR [RR-3223] and Statement of Common Ground (SoCG) with the Applicant [REP9-090] that the Applicant's approach, whereby the net gain shown within the metric is based only upon land impacted during the project (230.09ha), was agreed with the Applicant at the pre-application stage due to the constraints associated with providing a 10% gain on the full site. NE also noted that as BNG is not mandatory for Nationally Significant Infrastructure Projects (NSIP), it would not be requiring specific measures. NE also recommended that the target increase of 22.5% habitat units and 16.7% watercourse units should be secured by a suitably worded requirement in the DCO.
- 14.3.4. The Applicant provided further explanation at ISH8 (Applicant's Written Summary of Oral Submissions ISH8: Ecology) [REP6-082] that it was required to draw its Order Limits around the airport as a whole to ensure the full airport is bound by the controls in the DCO. As a result, the redline boundary is not solely around areas of impact as would be the case for many other developments. Therefore, its position is that using BNG with a baseline of the Order Limits as a whole would lead to skewed calculations and a need to provide a gain that was disproportionate to the impact.
- 14.3.5. The Applicant confirmed [REP6-082] that if the BNG calculation is carried out across the full Order Limits, the BNG calculations would show approximately 7% net gain.
- 14.3.6. At ISH8 the LePAs highlighted that the most recent BNG guidance from DEFRA (Calculate biodiversity value with the statutory biodiversity metric, updated February 2024) states that *"If you are making an on-site calculation, you will need to include everything that exists within a development's red line boundary. This includes all features, whether or not they may be lost, retained or improved"*.
- 14.3.7. In its finalised Principal Areas of Disagreement Summary Statement (PADSS) Surrey County Council (SCC) [REP9-168] states that it is of the view that if BNG

statutory/ best practice guidelines are not followed, it is inappropriate to state the scheme is achieving BNG.

- 14.3.8. Nevertheless, at D9 the LePAs indicated in the SoCG with the Applicant [REP9-090] and in their Closing Submission (para 3.88, [REP9-151]) that their concerns about non-compliance with the current BNG methodology in the calculation of BNG had been addressed through the s106 agreement obligation for a landscape and ecology enhancement fund (refer to para 14.3.54 to 14.3.59 below) and associated dedicated officer.
- 14.3.9. In response to ExQ2.EN.2.1 [PD-021] NE confirmed that its position had not changed from its RR [RR-3223], as the DEFRA guidance update is specific to applications which are currently required to achieve a 10% BNG [REP7-116].
- 14.3.10. The Applicant explained (para 14.1.36, [REP9-112]) that achievement of the target BNG would be secured through the approval of a Landscape and Ecology Management Plan (LEMP) for each part of the Proposed Development under Requirement (R) 8 of the draft DCO (dDCO). The oLEMP (para 8.1.3, [REP9-047]) states that each LEMP submitted to the relevant authority for approval pursuant to R8 will include an explanation of how the plan contributes to the achievement of 19.4% BNG.

Habitat Trading Rules

- 14.3.11. The Proposed Development would result in the net loss of 3.35ha of woodland. The Applicant explained in the BNG Statement [REP8-076] that it would not be possible to plant extensive areas of new woodland due to aircraft safeguarding requirements.
- 14.3.12. The BNG Statement [REP8-076] is clear that, due to the loss of woodland, the calculation does not pass the habitat trading rules. Habitat trading rules are set to prevent a net gain being delivered through the incorporation of large areas of low value habitat at the expense of higher value habitats. The net loss of woodland (-52.37 units) is replaced with a net gain in grassland (97.61 units), heathland and shrub (34.24 units) and wetland (10 units).
- 14.3.13. Crawley Borough Council (CBC) [REP9-133] and West Sussex County Council (WSCC) [REP9-172] state in their finalised PADSS that if the Proposed Development is to truly deliver 10% BNG (and meet BNG trading rules) this needs to include woodland, as woodland is a key habitat impacted by the Proposed Development.
- 14.3.14. NE stated in its RR [RR-3223] and SoCG with the Applicant [REP9-090] that it considers the rationale given by GAL for not meeting the trading rules to be satisfactory, given that it is in the interest of aircraft and public safety that new areas of woodland should not be planted within the Order Limits.

Biodiversity Net Gain Additionality

- 14.3.15. The JSCs stated in their LIR [REP1-097] that habitat creation/ enhancement for protected species should not be counted towards achieving 10% BNG. Its concern was reiterated at D7 [REP7-105], that it was unclear how the habitat enhancement and compensation proposed for protected species mitigation has been included in the BNG metric. The D7 submission explained that usually, two metrics would be submitted, one metric including all habitat proposals for protected species mitigation and a second metric with all other habitat proposals.

- 14.3.16. The Applicant responded [REP8-117] that it considers that the approach to the assessment of BNG has accounted for all necessary aspects of the calculation and is therefore correct. It also highlighted that NE reiterated its support for this position in its response to ExQ2 EN.2.1 [REP7-116]. However, the JSCs maintained that the Applicant had not answered their question on BNG additionality [REP9-143].

ExA's Conclusions on Biodiversity Net Gain

- 14.3.17. The Applicant's case is that it can achieve a 19.64% BNG across the Proposed Development. However, achieving this scale of benefit is questionable in the context of the latest DEFRA guidance on the calculation of BNG. As the Applicant acknowledges, the net loss of woodland falls foul of habitat trading rules and while understandable, further undermines the Applicant's case for BNG. There is currently no mandatory requirement for NSIPs to secure a 10% BNG but such a benchmark provides a useful measure of BNG benefit. Achieving approximately 7% gain based on a calculation across the entire Order Limits and not simply the area of habitats to be lost would still have an overall benefit but this would carry substantially less weight than an almost 20% BNG.
- 14.3.18. We also note that the Applicant has not followed the advice of NE that BNG should be secured through a requirement in the DCO and therefore, while providing a target, does not secure the benefits which NE and the LePAs were seeking.

LOSS OF WOODLAND HABITAT

- 14.3.19. We questioned the Applicant at ExQ1.EN.1.7 [PD-012] as to why replacing lost woodland habitat with new woodland habitat on a like for like basis within the Proposed Development poses any greater risk to aircraft safeguarding than that which exists in the baseline scenario and what alternative options were considered.
- 14.3.20. The Applicant responded [REP3-090] that the greater part of loss of trees is a result of the highway improvements (Work numbers (Nos) 35 – 37). There is limited space within the highway corridor to replant trees on a like for like basis once the revised road geometry has been accounted for. Furthermore, the re-provision of woodland elsewhere within the Proposed Development site would involve planting closer to the runways and could increase risk of bird strike due to an increase in risk species commuting across the runways. The Applicant also explained that planting of woodland in offsite areas had been explored and included in the application, where safe to do so (for example, wet woodland along Horley Road and woodland edge habitat around existing mature tree lines).

Realistic Worst-Case Loss of Trees

- 14.3.21. In Appendix C to its D3 submission [REP3-117], the JWSLAs stated that the Applicant had not demonstrated the proposed extent of tree removal was required in a realistic worst-case scenario. The JWSLAs also listed the arboricultural features where the need for removal had not been demonstrated by the Applicant.
- 14.3.22. In response to the concerns from the JWSLAs, the Applicant reduced the extent of tree removal along the surface access corridor in the outline Arboricultural and Vegetation Method Statement (oAVMS) submitted at D6 [REP6-018] and quantified the extent of tree removal in the Tree Survey Report and Arboricultural Impact Assessment (TSRAIA) (para 6.2.9, [REP6-038]). The Applicant also highlighted that the project-wide design principles L1 and L4 in the Design and Access Statement Appendix 1 – Design Principles (final version [REP9-062]) ensure that the detailed design process would seek to retain existing vegetation where possible. The

Applicant submitted a Note on Project Wide Habitat Loss at D6 [REP6-071] (final version [REP8-098]) to provide a single point of reference for vegetation change.

- 14.3.23. Whilst the JWSLAs welcomed the updates at D6 [REP7-103], it remained of the view that the Applicant had not provided enough detail of the project proposals to demonstrate that the design had been based on a realistic worst-case scenario. The concern of the JWSLAs was that the proposals maximised space within construction areas to allow maximum flexibility with little consideration of arboricultural features. This remained an outstanding concern for the JWSLAs at the close of the Examination [REP9-151].
- 14.3.24. The Applicant's Closing Submissions [REP9-112] state that further detail would be provided during the detailed design stage to confirm tree loss. An AVMS would be submitted to CBC for approval for each area prior to any vegetation or tree clearance in that area. This is secured through R28 of the rDCO.

Time Delay and Advanced Planting

- 14.3.25. A number of Interested Parties (IPs) raised concerns in RRs that the time between habitat loss and subsequent re-provision associated with the length of the construction period had not been assessed. The issue was raised for example by Communities Against Gatwick Noise (CAGNE) [RR-0556], Councillor Essex [RR-0896], Gatwick Area Conservation Campaign (GACC) [RR-1495], Mr Humphreys [RR-4193], Surrey Climate Commission [RR-4396] Sussex Wildlife Trust [RR-4466] and others.
- 14.3.26. The Applicant responded to the RRs at D1 [REP1-048] confirming that the medium term significant adverse effects identified in ES Chapter 9 [APP-034] were due to the time lag that the IPs referred to. The effect would remain significant until the replanting had matured at which point the level of effect would be reduced below that of significant.
- 14.3.27. The JWSLAs stated in their LIR [REP1-068] that advance tree planting should be viewed as essential compensation and be provided wherever possible, predominantly within land adjacent to the surface access works. In its Response to the Local Impact Reports [REP3-078] the Applicant explained that locations adjacent to the surface access improvements works are too constrained by construction activities to be viable as locations for advance planting.
- 14.3.28. The Applicant pointed out in its Written Summary of Oral Submissions ISH8: Ecology [REP6-082] that the oLEMP [REP9-047] requires each LEMP to include advance mitigation and enhancement planting opportunities and Annex 4 of the oLEMP includes preliminary locations for advance planting (approximately 10ha in the Museum Field Environment Mitigation Area, 2.5ha of hedgerow at Crawler's Brook and 0.3ha beside Perimeter Road East/ A23). The submission of each LEMP to CBC for approval is secured through R8 of the rDCO.
- 14.3.29. In its final SoCG with the Applicant [REP9-084], WSCC stated it had outstanding detailed concerns regarding advanced planting (see sections 3 and 5 of the JLAs Response to the Applicant's D6 Submissions [REP7-103]). Furthermore, it raised concern that the proposed advanced planting would not minimise the effects alongside the highway corridors.

Replacement Tree Planting

- 14.3.30. Concern was raised by the JWSLAs at D4 [REP4-042] that it was unlikely, given the level of flexibility sought by the Applicant, that the precise level of tree loss could be known prior to the determination of the DCO. As such, the authorities sought for tree mitigation to be secured, initially via a section (s) 106 agreement and then latterly through an additional requirement in the DCO.
- 14.3.31. Policy CH6 of the CBC Local Plan (2015-2030) states (para 9.31, [REP1-068]) that where development proposals would result in the loss of trees, a number of additional replacement trees must be provided, with the number of replacement trees calculated based on the trunk diameter of each tree to be removed. Additional and replacement tree planting requirements would normally be expected to be met within the Proposed Development site. Where the local planning authority agrees that this is not feasible or desirable, commuted sums will be sought in lieu on a per tree basis.
- 14.3.32. The Applicant provided calculations in the TSRAIA [REP8-064] to demonstrate that in the worst-case scenario, the proposed replacement tree planting would provide a sufficient number of trees to satisfy Policy CH6.
- 14.3.33. The LePAs remained concerned that there was not a mechanism in place to secure the payment of compensation required under Policy CH6 if the proposed tree planting was not delivered and provided a proposed new requirement wording at D7 [REP7-103]. We raised the issue at ISH9, following which the Applicant proposed its own new requirement (R39) in its draft DCO (dDCO) submitted at D8 [REP8-005]. R39 secures a tree balance statement being submitted to CBC for approval and the payment of a tree mitigation contribution to CBC if the total number of trees provided is less than the number required under CBC Policy CH6.
- 14.3.34. In the LePAs Closing Statement [REP9-151], they welcomed the principle of the addition of R39 to the dDCO but questioned why this requirement should only be fulfilled after 9 years from the commencement of dual runway operations and suggested that a phased approach would be appropriate. Amendments to the wording of R39 were submitted by the LePAs at D9 [REP9-147].
- 14.3.35. At the close of the Examination the key remaining concerns of the LePAs in their Closing Statement [REP9-151] were: "(i) failure to provide adequate mitigation/compensation for the loss of 3.12 ha of woodland, and (ii) failure to demonstrate a realistic worst-case approach to tree-loss has been applied."

ExA's Conclusions on Loss of Woodland Habitat

- 14.3.36. The Applicant has acknowledged that there would be a net loss of area of woodland arising from the Proposed Development. While originally this was identified as an area of 5.7ha the Applicant's revised figure places this at 3.12ha. The JWSLAs identified the loss as a key concern but also maintained their position that insufficient justification had been provided for the calculation of the loss. However, based on the analysis provided by the Applicant in Note on Project Wide Habitat Loss [REP8-098], we consider that a realistic worst-case has been prepared in spite of the reduction in area.
- 14.3.37. IPs concerns about the time delay between the loss of habitat and subsequent re-provision because of the length of the construction period are both justified and accepted by the Applicant. The effect would be moderate adverse until replacement planting matures, at which point the effect would fall below the level of significance.

While best practice and mitigation measures, including some advance planting, would limit the amount of habitat loss and the time period over which the impact is experienced, the scale of construction would mean that a significant effect cannot be avoided.

- 14.3.38. The Applicant's response in its Closing Submissions [REP9-112] to the issue of replacement tree planting is based in part on the replacement trees being of an improved overall ecological condition compared to the baseline and an overall net gain in the number of trees and increased diversity of habitats. Along with contribution towards the Gatwick Greenspace Partnership (GGP), a specific Landscape and Ecology Delivery Contribution under the s106 agreement and the revised version of R39 in the rDCO, we consider that an appropriate response to replacement tree planting has been provided which would also be in accordance with CBC Policy CH9.
- 14.3.39. We consider that the LePAs version of R39 more appropriately secures compliance with CBC Policy CH6 and so the rDCO reflects this.

LANDSCAPE SCALE APPROACH

- 14.3.40. Several of the local authorities and a number of IPs raised the issue that there needed to be a landscape scale approach to assessing and addressing ecological impacts, for example SCC [RR-4398], Reigate and Banstead Borough Council (RBBC) [RR-3734], WSCC [RR-4773] and GACC [RR-1495].
- 14.3.41. The Applicant provided its response at D1, for example in the SoCG with SCC [REP1-045], that the potential for ecological impacts beyond the DCO limits was recognised through the extension of the survey work beyond the Order Limits and that opportunities to create enhanced wildlife corridors beyond the confines of the existing airport boundary have included those at Brook Farm and Longbridge Roundabout.
- 14.3.42. The issue was also raised in the LIR of the JSCs [REP1-097] which the Applicant responded to at D3 [REP3-078] by reiterating that the Proposed Development would deliver habitat creation measures beyond the confines of the airport at both Museum Field and the Brook Farm area. However, the issue remained an outstanding concern of a number of IPs.
- 14.3.43. We raised the matter of the landscape scale approach at ISH8 [EV17-002 to EV17-005 and EV17-010 to EV17-013]. The LePAs were asked to expand on what they would like to see from the Applicant's proposals to evidence a landscape scale approach.
- 14.3.44. The LePAs explained that there were numerous impacts which extend beyond the airport boundary and that there is a need to maintain habitat connectivity within the wider landscape over the 14-year construction period. Also, due to the loss of woodland that cannot be replaced within the Order Limits the LePAs asked the Applicant to consider measures which would operate on a landscape scale and deliver off-site compensatory habitat. The LePAs position is set out in detail in their post hearing submission [REP6-109].
- 14.3.45. In response, the Applicant stated that it had considered the potential for severance effects and the importance of creating and maintaining linkages between the airport and the wider environment. It explained that the ecological strategy for the Proposed Development accounts for the presence of two rivers and their landscape-

scale role as wildlife corridors. The Applicant's position is that enhancing these river corridors within the Order Limits would result in an overall enhancement to the connectivity for biodiversity around the airport. Further detail on the Applicant's position can be found in its Written Summary of Oral Submissions ISH8: Ecology [REP6-082].

Biodiversity Opportunity Areas

- 14.3.46. The JSCs identify in their LIR [REP1-097] that Local Nature Recovery Strategies (LNRS) are a new statutory commitment from the Environment Act (2021). Whilst the Surrey LNRS is emerging at present, it will be heavily based on Biodiversity Opportunity Areas (BOA), and within Surrey the JSCs would be keen for habitat creation and ecological enhancements/ offsetting to take place within BOAs. Similarly, D3 Submissions from GACC [REP3-129] and Mr Benatt [REP3-159] identify the nearby BOAs and state that Proposed Development should incorporate a comprehensive strategy to protect and enhance these vital biodiversity areas around its site boundary.
- 14.3.47. In response to Mr Benatt's submission, the Applicant stated [REP4-029] that the Proposed Development has had regard to the aims of the BOAs that occur partially within the Order Limits by including the following:
- new tree planting would be undertaken along the eastern boundary of Pentagon Field, resulting in increased woodland within the BOA;
 - new wet woodland would be created within the Brook Farm area, along with new areas of reedbed; and
 - the planned diversion of the River Mole will increase the total length of channel and improve the shape/ flow characteristics.
- 14.3.48. Whilst there are no enhancements planned for the Glover's Wood and Edolph's Copse BOA, the Applicant stated [REP4-029] that the survey work undertaken as part of the bat trapping and radio tracking exercise could be used to further the BOA aim of species recovery through targeted management of those woodlands.
- 14.3.49. The Applicant also states (para 2.1.4, [REP4-029]), that although not set out in terms of a LNRS, the ecology strategy for the site, set out in the oLEMP (final version [REP9-047]), provides what is, in essence, a Local Nature Recovery Plan for the Gatwick estate and wider area. The Applicant also noted that its ecology strategy would enhance the key wildlife corridors along the various water courses and provide wildlife nodes throughout the site where none currently exist.
- 14.3.50. Paragraph 5.104 of the Airports National Policy Statement (ANPS) and paragraph 5.33 of the National Policy Statement for National Networks (NNNPS) are clear that proposed developments should provide opportunities for building in beneficial biodiversity as part of good design and that the SoS will consider whether applicants have maximised such opportunities in and around developments. The ANPS specifically references the importance of establishing and enhancing green infrastructure.
- 14.3.51. We sought to understand (with reference to the NPSs and representations mentioned above) whether the Applicant had maximised opportunities for enhancement around the airport and so asked the Applicant at ISH8 whether enhancements to woodland within other nearby BOAs could be used to further compensate for the woodland loss.

- 14.3.52. The Applicant responded [REP6-082] that the Gatwick Wood and River Mole BOAs had been incorporated into the ecology strategy as set out in the oLEMP (final version at [REP9-047, REP9-049 and REP9-051]) and that the other BOAs within the surrounding landscape are some distance from the application site. The Applicant also stated: *“Simply because there are BOAs some distance from the Project does not mean that one has to look to incorporate those.”*
- 14.3.53. We sought clarification from the Applicant in ExQ2.EN.2.2 [PD-021] as to the distance from the Order Limits that it had considered enhancement opportunities. The Applicant responded [REP7-082] that the land at Brook Farm and the land at Longbridge Roundabout had been identified as appropriate locations outside of the existing airport boundary that could be incorporated into the Order Limits and form a key component of the ecology strategy for the Proposed Development. The Applicant considered that the ecological enhancement provided within the Order Limits was significant, appropriate and proportionate and that there was no requirement to seek additional enhancement off-site.

Landscape and Ecology Enhancement Fund

- 14.3.54. Whilst the LePAs acknowledged, in their post hearing submission to ISH8 [REP6-109], that the Applicant may be taking a landscape scale approach within the confines of the Order Limits, the LePAs maintained that the Applicant’s proposals did not represent a landscape scale approach.
- 14.3.55. The LePAs position was that the best way for the Applicant to achieve the required landscape scale approach would be through a specific landscape and ecological enhancement fund. This fund would be separate to the GGP fund secured by Schedule 6 of the draft s106 agreement. The LePAs noted [REP6-109] that, while the GGP is an admirable initiative, it focusses on a small number of discrete sites and relies on significant community involvement.
- 14.3.56. The Applicant was initially opposed to a separate fund because it did not think that a specific landscape and ecology enhancement fund was necessary. The Applicant pointed out that measures to improve ecology around the airport would primarily be secured through the oLEMP and R8 of the dDCO. In addition, the Applicant emphasised that the GGP had been effective and wide ranging to date and that it preferred this approach to setting up different individual funds.
- 14.3.57. However, at D9 the Applicant’s completed s106 agreement [REP9-102] included provision for a Landscape and Ecology Enhancement Fund (including an associated ecologist to be employed by WSCC or CBC in respect of distribution of the fund).
- 14.3.58. The LePAs confirmed [REP9-147] in their D9 update on the draft s106 agreement that through the agreement of the terms of Schedule 6, together with the dDCO requirements and associated control documents noted in the preceding paragraphs, that all issues raised and submissions made in relation to these elements of Biodiversity and Landscaping mitigation (including the need for a landscape scale approach) during the Examination had been adequately addressed.
- 14.3.59. Other IPs, for example GACC in its Closing Statement [REP9-248], maintained that a landscape-scale approach to assess and address biodiversity and ecological impacts was still required.

ExA's Conclusions on Landscape Scale Approach

- 14.3.60. The JLAs (and other IPs) argued throughout the Examination that the Applicant had not adopted a landscape scale approach to assessing and addressing ecological impacts and the mitigation to address the impacts. At D9 the JLAs confirmed that a s106 agreement obligation for a Landscape and Ecology Enhancement Fund and associated dedicated officer would address their concerns. While we do not consider that these provisions in themselves would address the concerns about the approach to assessing impacts, the Applicant's case, as summarised at D6 [REP6-082] and in its Closing Submissions at D9 [REP9-112] demonstrated that it had considered a study area beyond the application site for assessment and therefore, in our view addresses this concern.
- 14.3.61. We have considered whether the Applicant has maximised the opportunities for building in beneficial biodiversity in and around developments in accordance with paragraph 5.104 of the ANPS and paragraph 5.33 of the NNNPS. In our view, given the proximity of the application site to BOAs and their role in providing a strategic framework for conserving and enhancing biodiversity at a landscape scale the Applicant has not taken the opportunity to maximise enhancement opportunities in spite of proposed improvements within the Order Limits. However, the provision of a Landscape and Ecology Enhancement Fund and funding for an ecologist through the s106 agreement could provide a mechanism for beneficial biodiversity to be maximised over a wider area in line with the objectives within the ANPS and NNNPS.

STATUTORY DESIGNATED SITES

- 14.3.62. The impacts of the Proposed Development on internationally designated sites are considered in detail in Chapter 19 of this Report. Therefore, this section focuses primarily on nationally designated sites although there is a strong degree of overlap given the internationally protected sites identified as for this application are underpinned by the Site of Special Scientific Interest (SSSI) designations.

Nationally Designated Sites

- 14.3.63. NE raised concern in its RR [RR-3223] that three sites (Titsey Woods SSSI, Westerham Woods SSSI and Mole Gap to Reigate Escarpment SSSI) show an increase in nitrogen oxides (NO_x) and nitrogen deposition that is greater than 1% of the critical load/ level. However, no assessment of potential impacts to these sites had been made.
- 14.3.64. NE also expressed concern that air quality impacts to nationally designated sites had only taken into account NO_x and nitrogen deposition. Despite ammonia (NH₃) being included within the air quality assessment for internationally designated sites, there had been no assessment made for all SSSIs.
- 14.3.65. Additional assessment of the impacts to SSSIs within 200m of the affected road network was undertaken by the Applicant (Appendix G of [REP1-050] - Supporting Air Quality Technical Notes to SoCGs). The SoCG between the Applicant and NE [REP9-090] records that NE agreed with the conclusions of the assessment that there were no significant effects on all sites other than Westerham Wood SSSI where they requested further bryophyte surveys be undertaken to determine whether this interest feature was present with the impact risk zone adjacent to the M25.

- 14.3.66. The SoCG between the Applicant and NE [REP9-090] records that following review of the bryophyte surveys NE agreed with the conclusion that there would be no significant impact on the SSSIs included within the assessment.

ExA's Conclusions on Statutory Designated Sites

- 14.3.67. The Applicant's initial assessment concluded that the Proposed Development would not result in LSE on any SSSI other than Westerham Wood SSSI which was subject to further surveys to address traffic related air quality issues. The SoCG between the Applicant and NE [REP9-090] confirms that there will be no significant impacts on the SSSIs included within the assessment. No other IPs raised concerns about the effects of the Proposed Development on statutory designated sites. Considering NE's position, we are content that there would be no significant air quality impacts to nationally designated sites.

PROTECTED HABITATS AND SPECIES

Ancient Woodland

- 14.3.68. Concerns were raised by several IPs including the JWSLAs in their LIR [REP1-068] regarding the protection of ancient woodland during the construction phase.
- 14.3.69. The Applicant submitted a TSRAIA [REP1-026 to REP1-030] and an outline Arboricultural and Vegetation Method Statement (oAVMS) [REP1-023 to REP1-025] at D1. There was discussion throughout the Examination about the content of these documents that is summarised in the SoCG between the Applicant and WSCC [REP9-084] resulting in updates to these documents [REP9-037 and REP8-064].
- 14.3.70. The SoCG between the Applicant and WSCC [REP9-084] records that the TSRAIA updated at D6 [REP6-038], alongside with the oAVMS updated at D7 [REP7-030] provided adequate protection for retained trees and demonstrated avoidance of impacts within the buffer zone of Horleyland Woods ancient woodland. We consider that the measures identified in the oAVMS (Section 3, [REP9-037]) for ancient woodland both generally and also specifically for Brockley Woods and Horleyland Woods are adequately secured through R28 in the rDCO.
- 14.3.71. The CoCP (para 5.4.4, [REP9-031]) also ensures that measures will be put in place to ensure that a minimum buffer is retained between ancient woodland and construction areas including appropriate fencing to prevent access, avoid compaction of soils or roots and to avoid any accidental damage. R7 in the rDCO secures that construction of the Proposed Development must be carried out in accordance with the CoCP.

Badgers and Great Crested Newts

- 14.3.72. At D9 the Applicant submitted letters of no impediment (LONI) received from NE [REP9-126 and REP9-127] in relation to the Applicant's draft badger and great crested newt (GCN) licence applications. NE confirmed in both LONIs that it saw no impediment to a licence being issued, should the DCO be granted. NE set out points that should be addressed fully as part of a formal licence application submission. NE highlighted in the SoCG with the Applicant [REP9-090] that the LONI for GCN contains caveats which should be addressed during the actual application.

Bats

European Sites

- 14.3.73. NE confirmed in its RR [RR-3223] that it was satisfied that the bat colonies identified within the airport's vicinity are not functionally linked to any of the nearby European designated sites.

Loss of Habitat

- 14.3.74. The JWSLAs raised concern in their LIR [REP1-068] regarding the impacts of disturbance and loss of woodland habitat, leading to impacts on commuting, foraging and roosting activity of bats, including Bechstein's, Alcatheo and barbastelle bat.
- 14.3.75. Similar concerns around disturbance and habitat severance were also raised by Mr Benatt at D3 [REP3-159]. The Applicant responded [REP4-029] explaining that overall connectivity through the length of the A23 is not severed at any point, with at least a 10 to 15m buffer of retained vegetation present along the Gatwick Stream to ensure connectivity, although reduced, is never severed. The Applicant also pointed out that the CoCP (paras 5.4.20 and 5.4.21, [REP9-031]) sets out measures to ensure the maintenance of a dark corridor along the Gatwick Stream, in particular where it meets the River Mole, to ensure connectivity for bats is maintained.
- 14.3.76. The SoCG between WSCC and the Applicant [REP9-084] records that whilst WSCC still had concerns regarding disturbance over the lengthy construction period, including the loss of woodland and impacts on bats over the short and medium term, subject to the s106 agreement Landscape and Ecology Enhancement Fund being agreed (which would help mitigate these impacts), this issue could be marked as agreed.
- 14.3.77. The JSCs raised concerns in its LIR [REP1-097] that no bat roost surveys of 'high' or 'medium' trees proposed for removal have been carried out to inform the baseline and impact assessment.
- 14.3.78. The Applicant submitted a Bat Tree Survey Report at D8 [REP8-104] and summarised in its Closing Submissions [REP9-112] that no bats had been identified as using any tree on site which is required to be felled.
- 14.3.79. In their D9 submission [REP9-143] the JSCs commented that whilst no bat roosts have been identified to date, it considered it was clear that the trees which would be removed provide a significant roosting resource for the local bat population. The JSCs state that the mitigation provided by the scheme should ensure that there is no reduction in roost resource following the construction of the Proposed Development and ideally provide an enhancement to roosting resource.
- 14.3.80. The Applicant set out in its Closing Submissions [REP9-112] that the completion of surveys during the Examination and the commitment to undertake, as necessary, pre-commencement surveys would ensure that the Proposed Development accounted for bats that may be roosting in trees and would mitigate any potential effects.
- 14.3.81. The LePAs state in their Closing Submission (para 3.88, [REP9-151]) that the JLAs have secured a s106 agreement obligation for a landscape and ecology enhancement fund (refer to paragraphs 14.3.54 to 14.3.59 above) and associated

dedicated officer as a means of addressing concerns relating to compensatory measures to offset impacts on bats and now consider them addressed.

Noise Impacts

- 14.3.82. Horsham District Council (HDC) raised concerns in its RR [RR-1742] regarding noise impacts on Bechstein and barbastelle bat populations to the west of the airport.
- 14.3.83. At D5 the Applicant submitted a technical note providing further details on the potential for disturbance effects from noise on bats (section 3 of Supporting Ecology Technical Notes [REP5-069], subsequently updated at D8 [REP8-094]). The conclusion of this note was that there would be no effect on any bats, given the high-noise environment bats were already acclimated to. As such, the Applicant concluded that there were no implications for the conclusions in either the ES or the Habitats Regulations Assessment Report.
- 14.3.84. HDC maintain in its final PADSS [REP9-139] that noise impacts on Bechstein and barbastelle bat populations should be considered in greater detail. The SoCG between HDC and the Applicant [REP9-070] references ongoing work to establish whether there are additional roosts. HDC state in its PADSS that it awaits the outcome of this survey work, and NE's response.
- 14.3.85. The Applicant was asked at ExQ2.EN.2.9 [PD-021] for details of the ongoing review of potential impacts of noise on bats with NE that HDC refer to in its D5 submission [REP5-042]. The Applicant responded [REP7-082] that it had discussed the matter with NE who have confirmed their agreement with the Applicant's assessment. The SoCG between NE and the Applicant [REP9-090] records this matter as agreed.

Pre-Construction Surveys

- 14.3.86. The CoCP [REP9-031] outlines the surveys of Habitats and Species that will be undertaken prior to commencement of construction works including: breeding bird surveys; climbing inspections and/ or dusk emergence and dawn re-entry surveys for bats; reptile surveys (if identified as required following an initial walkover by the Ecological Clerk of Works (ECoW)); GCN re-survey; and badger re-survey. We consider that this is adequately secured in R7 in the rDCO which requires that construction of the Proposed Development must be carried out in accordance with the CoCP.

ExA's Conclusions on Protected Habitats and Species

- 14.3.87. Through various documents submitted during the Examination including the TSRAIA [REP8-064] and oAVMS [REP9-037] and measures secured through the CoCP and R7 of the rDCO, the Applicant has confirmed protection would be provided for retained trees and to avoid potential adverse impacts in the vicinity of ancient woodland. As protected species, appropriate measures are in place to prevent harm to badgers and GCN through the draft licences. Additionally, while some IPs raised concerns about the potential loss of habitat for bats, survey work during the Examination and proposed mitigation to be secured through R7 and R8 of the rDCO would provide adequate protection.

OTHER MATTERS

Loss of Pond Habitats

- 14.3.88. Concern was raised by some IPs about the loss of habitat associated with the removal of two ponds that would not be compensated for (for example in the JWSLAs LIR [REP1-068] and Mr Benatt's D3 submission [REP3-159]).
- 14.3.89. We raised the matter at ISH8 [EV17-002 to EV17-005 and EV17-010 to EV17-013] and the Applicant confirmed that the ponds that would be removed were currently managed in such a way as to prevent them being ecological habitats due to their location in relation to the runway and the relevant airport safeguarding requirements. The loss of these ponds was considered to be a minor adverse effect in ES Chapter 9 [APP-034].
- 14.3.90. The Applicant was of the view that it is not necessary to replace those ponds. Instead, the Applicant would be mitigating the loss in ecological functionality terms of the ponds by providing wider wetland habitats in the form of reed beds at the south terminal roundabout area and as part of the water treatment works [REP6-082].
- 14.3.91. RBBC [REP9-166] and SCC [REP9-168] maintained in their finalised PADSS that concerns on this matter had not been addressed.
- 14.3.92. We consider that the Applicant's position is reasonable considering that the BNG Statement (Annex 3, [REP8-076]) shows a net gain of 10 units in relation to wetland habitat.

Invasive Species

- 14.3.93. The Environment Agency (EA) raised concern in its RR [RR-1374] that minimal reference to invasive non-native species (INNS) impact was included within ES Chapter 9 [APP-034] and that biosecurity or INNS management had not been included in the CoCP.
- 14.3.94. The Applicant submitted an Outline INNS Management Strategy in Annex 8 of the CoCP [REP4-011] (final version (REP8-044)). The signed SoCG between the Applicant and the EA [REP10-015] records that all matters relating to INNS are agreed. No other IPs raised concerns regarding INNS.
- 14.3.95. The INNS Management Strategy [REP8-044] states that prior to commencement of development in any area, an INNS survey will be carried out by the ECoW and if INNS is identified, a specific INNS Management Plan for that area must be submitted to and approved by CBC. The INNS Management Strategy forms part of the CoCP and is secured through R7 of the rDCO. We consider that the Applicant's approach to INNS management is acceptable.

14.4. ExA's CONCLUSION ON ECOLOGY

- 14.4.1. We have given careful consideration to the views of IPs, to the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, NE. We find that, the Applicant has addressed those concerns as far as possible in line with relevant legislation, the policy within the ANPS and other policy requirements and referenced through the relevant LIRs as important and relevant matters.

- 14.4.2. While there would be adverse effects on some habitats and protected species during construction arising from the loss of woodland habitat, these impacts would be temporary but long term until mitigation planting matures.
- 14.4.3. During the operational phase, the Applicant's proposed mitigation and compensation measures would ensure that there would be no significant adverse residual effects on ecology and the habitat creation/ enhancement measures secured through the oLEMP, for example additional hedgerow planting and the realignment of the River Mole would result in significant beneficial effects. In addition, we consider that there is an overall benefit from BNG. However, as the proposed BNG calculations fall foul of habitat trading rules and do not include all land within the Order Limits, we consider that this would carry little weight.
- 14.4.4. Mitigation and compensation measures would be adequately secured through requirements R7, R8, R28 and R39 of the rDCO as well as Schedule 6 of the s106 agreement.
- 14.4.5. Nevertheless, because of the timescale to achieve the beneficial effects, our overall conclusion in respect of ecology is that a little weight should be ascribed against the Order as applied for. This conclusion also applies to the Order with the ExA's rDCO.

15. HEALTH AND WELLBEING

15.1. THE APPLICATION

15.1.1. The Applicant's assessment of health and wellbeing was primarily contained within Chapter 18 of the Environmental Statement (ES) [APP-043]. For the purposes of this assessment, this included the:

- Construction period - construction and demolition activities within the existing airport boundary, including the construction of upgraded highway junctions and associated changes in surface transport; and
- Operation period - use of the airport, including upgraded highway junctions.

15.1.2. ES Chapter 18 [APP-043] was also supported by the following documents:

- ES Appendix 18.2.1 Summary of Planning Policy - Health and Wellbeing [APP-202];
- ES Appendix 18.3.1 Summary of Stakeholder Scoping Responses - Health and Wellbeing [APP-203];
- ES Appendix 18.3.2 Summary of Other Consultation Responses - Health and Wellbeing [APP-204];
- ES Appendix 18.4.1 Methods Statement for Health and Wellbeing [APP-205];
- ES Appendix 18.5.1 Health Baseline Trends, Priorities and Vulnerable Groups [APP-206];
- ES Appendix 18.5.2 Health and Wellbeing Baseline Data Tables [APP-207]; and
- ES Appendix 18.8.1 Quantitative Health Assessment Results [APP-208].

15.1.3. Several measures were proposed as part of the Proposed Development to mitigate the potential impacts on health and wellbeing. These measures are listed in Table 18.7.1 of ES Chapter 18 [APP-043] and the Mitigation Route Map [REP8-020].

15.1.4. With the proposed mitigation measures in place, no residual significant adverse effects were identified by the Applicant. However, the following residual significant beneficial effect was reported:

- Health and wellbeing effects from changes in socioeconomic factors - operational increase in direct, indirect, and induced employment opportunities. This beneficial effect was reported as being long-term and permanent and was applicable in respect of years 2032, 2038 and 2047.

15.2. ISSUES CONSIDERED DURING THE EXAMINATION

15.2.1. There were no health and wellbeing matters set out in our Initial Assessment of Principal Issues in Annex C of the Rule 6 letter [PD-009]. Based on the Applicant's application documents, we were satisfied that the Applicant had satisfactorily assessed health and wellbeing impacts in their submission as outlined above.

15.2.2. However, over 550 Relevant Representations (RR) raised concerns in respect of potential health and wellbeing impacts of the Proposed Development. Having taken these into account alongside the submitted application documents, we considered that the following issues should be further considered during the Examination. These were:

- the need for a standalone Health Impact Assessment;
- Section 106 Agreement – Schedule 7: Hardship Fund;
- air quality – ultrafine particulates; and

- Noise Insulation Scheme - overheating and ventilation.

Health Impact Assessment

- 15.2.3. ES Chapter 18 [APP-043] presents the Environmental Impact Assessment (EIA) findings concerning potential effects of the Proposed Development on human health and wellbeing and comprises a Health Impact Assessment (HIA). Compliance with relevant legislation and policy is outlined in Section 18.2 of ES Chapter 18 [APP-043] and in Section 8.19 of the Planning Statement [APP-245].
- 15.2.4. Concern was raised in the following Local Impact Reports (LIR) that the Applicant had not completed a standalone HIA or integrated a HIA to the same quality, scope, and scale as a standalone assessment:
- Joint West Sussex LIR [REP1-068];
 - East Sussex County Council LIR [REP1-070]; and
 - Joint Surrey Councils LIR [REP1-097].
- 15.2.5. Additional concerns detailed in the above LIRs related to the fact that because of the nature of the HIA included within ES Chapter 18 [APP-043] it was not possible for the separate local authorities to understand the specific health impacts on each of the local authority populations. It was further stated that as health impacts would vary across the authority areas, separate HIAs were required and should have been presented transparently rather than integrated within an existing ES chapter.
- 15.2.6. This matter was also discussed at Issue Specific Hearing 3 – Socioeconomics [EV8-001 and EV8-002] (ISH3). The Applicant noted [REP1-058] that it had prepared a robust health equality assessment, in the form of the HIA. Additionally, the Applicant commented that it did not consider it necessary to also prepare an Equalities Impact Assessment, as this would be a different exercise that would not fall to the Applicant to carry out. However, the Applicant suggested that it would prepare a signposting document to indicate where equalities information relating to protected characteristics had been set out in the existing application material.
- 15.2.7. During ISH3 the Legal Partnership Authorities (LePAs) accepted [REP1-213] that the Applicant would not be subject to the Public Sector Equality Duty (PSED) but noted that health inequalities was an important component of a HIA, and that the Applicant had not, in ES Chapter 18 [APP-043], provided a sufficiently comprehensive assessment.
- 15.2.8. Additionally, following the publication of the ISH3 action points [EV8-005] the Applicant confirmed that an Equality Statement was to be provided at Deadline (D) 3 to support the SoS obligations in discharging the PSED when making a decision [REP1-064]. This document was submitted at D3 [REP3-109]. Further detail in respect of PSED is discussed in Chapter 20 Compulsory Acquisition and Related Matters of this Report and is not repeated here.
- 15.2.9. In the second round of written questions (ExQ2) we asked the Applicant whether a standalone HIA for West Sussex County Council (WSCC) as required at ExQ2.HW.2.10 [PD-021]. In response [REP7-084] the Applicant stated that this was not deemed necessary as the geographic reporting of an assessment by impact related study area rather than by individual local authority is a proportionate approach that is the norm for reporting results in both a HIA and EIA. It was also confirmed that the assessment findings were based on the local evidence base for each local authority, and not an average. Similarly, the results were not an averaged effect that relied on multiple local authorities to be assessed together to avoid

significant adverse effects. Adverse effects would not become more or less significant if a local authority was considered individually.

- 15.2.10. The Applicant further confirmed [REP7-084] that a standalone HIA for each local authority would result in a high degree of duplication, running to several thousand pages. It would not change the conclusion, with which the United Kingdom Health Security Agency (UKHSA) and the Office for Health Improvement and Disparities (OHID) agreed [RR-4687], that the Proposed Development would not result in any significant adverse effects to public health.
- 15.2.11. We noted that the initial concern raised by WSCC in their LIR [REP1-068] remained an issue in their Principal Areas of Disagreement Summary Statement (PADSS) [REP9-172], insofar as a standalone HIA was still deemed necessary. Whilst WSCC acknowledged the submission of the Equality Statement by the Applicant, this was not the standalone HIA that it considered necessary.

ExA's Conclusion on the Health Impact Assessment

- 15.2.12. We are satisfied that the HIA undertaken by the Applicant adequately assessed potential effects on human health as a result of the Proposed Development. Additionally, we consider that the assessment contained within ES Chapter 18 [APP-043] applied recognised HIA guidance and combined this with the regulatory requirements defined for EIA to investigate, inform, assess, and effectively communicate how and where health issues and opportunities are addressed.
- 15.2.13. In relation to the scale of the HIA, the concerns of WSCC at the close of the Examination are noted. However, we are content that as the assessment findings were based on local evidence data sets for each local authority and results were not averaged, the scale of the HIA was appropriate.
- 15.2.14. In terms of the need for an equality impact assessment, this is required by the Equality Act (2010) but only applies to those public sector organisations or authorities who must comply with the PSED. As such, we accept it was not necessary for the Applicant to undertake such an assessment.
- 15.2.15. We therefore consider that the HIA complies with both paragraph 4.72 of the Airports National Policy Statement (ANPS) and paragraph 4.81 of the National Networks National Policy Statement (NNNPS) insofar as the assessment undertaken identified and set out any likely significant health impacts.

Section 106 Agreement – Schedule 7: Hardship Scheme

- 15.2.16. At D6, the Applicant submitted an updated version of the draft s106 agreement [REP6-063] into the Examination. A Hardship Scheme was included in Schedule 7, which included the provision of a Hardship Fund.
- 15.2.17. The fund was stated [REP6-063] as being available up to and including 31 December 2047 and would be made available on an annual basis for the purpose of mitigating hardship suffered by individuals living in relevant areas because of the Proposed Development. Specific criteria were set out in Schedule 7 in respect of eligibility and any funding provided would need to be used to provide extra care needs, home modification or short-term respite accommodation periods if unacceptable disruption would be experienced by the Hardship Scheme applicant. Payments awarded under the Hardship Scheme would not exceed £5,000 per household unless otherwise agreed by the Applicant upon the recommendation

from a relevant Integrated Care Board. The total funding available per annum was set at £10,000.

- 15.2.18. At ExQ2.HW.2.9 [PD-021] we asked the Applicant to provide reasoning for the inclusion of Schedule 7 and to also answer specific questions regarding the content of the Schedule. In response, the Applicant confirmed [REP7-084] that funding was initially proposed to be facilitated through the London Gatwick Community Fund, however following comments from the Joint Local Authorities (JLAs), a decision was made to provide a separate fund. The overarching aim of the fund would be to mitigate potential impacts of the Proposed Development on individuals experiencing hardship.
- 15.2.19. In terms of funding, the Applicant also confirmed [REP7-084] that the figure of £10,000 per annum had been calculated on informed expectations of likely demands on the Hardship Fund. It was further stated that the fund was only to be administered in 'exceptional circumstances' related to the Proposed Development and for situations where support would not be covered through other mitigation measures.
- 15.2.20. The other mitigation measures where eligible applicants would be able to draw funding from was stated as being the Noise Insulation Scheme and the London Gatwick Community Fund. Additionally, the Applicant also referenced the Code of Construction Practice (CoCP) [REP9-031] which was stated as securing both on and off-site measures to mitigate effects on residents. As such, the Applicant considered that there would be a limited number of eligible applicants for the Hardship Fund and that the sum of £10,000 per annum would be sufficient.
- 15.2.21. The issue of the Hardship Fund was also discussed during Issue Specific Hearing 9 - Socioeconomics (ISH9), where we asked further questions regarding eligibility and timing of delivery of the fund [EV20-015 and EV20-017]. In summary, the Applicant reiterated that the fund would provide appropriate mitigation for those very rare instances when a person of exceptional vulnerability was present at a place and time of a large change caused by the Proposed Development and where the other mitigation measures would be either not applicable or not intended to address the level of sensitivity. The Applicant also stated that the level of funding was under review and any changes would be confirmed at D9 [REP8-109].
- 15.2.22. During ISH9, in respect of the Hardship Fund, the LePAs [REP8-167] confirmed that they wished to see the terms by which some of the eligibility criteria were defined tightened. They also considered that there should be an increase in the quantum of the overall fund and although it was acknowledged that discussions were ongoing between the parties, they emphasised the need for a better package than that currently proposed.
- 15.2.23. At D9 [REP9-119], the Applicant confirmed that the level of funding available had been amended to the following non-accruing sums:
- £25,000 during the period between the Commencement Date and Commencement of Dual Runway Operations;
 - £50,000 during the Monitoring Period; and
 - £25,000 following the end of the Monitoring Period until 2047.
- 15.2.24. At D9, we noted that in both the 'Joint Position Statement between Gatwick Airport Limited and the Joint Local Authorities' [REP9-123] and the 'Legal Partnership Authorities Update on the Draft DCO Section 106 Agreement' [REP9-149] that it

was stated “*Through the agreement of such terms, the parties confirm that all issues raised/ submissions made in relation to the mitigation of Health impacts during the examination have been adequately addressed*”.

ExA’s Conclusion on the Section 106 Agreement – Schedule 7: Hardship Scheme

- 15.2.25. We note that the LePAs stated throughout the Examination that the Applicant had failed to recognise the full effect the Proposed Development could have on vulnerable groups in the local community [REP1-097, REP5-038 and REP5-115]. Despite these concerns, prior to D7 the Applicant maintained that the various mitigation funds, particularly the proposed Community Fund, would provide adequate mitigation for the most vulnerable members of local communities.
- 15.2.26. The Applicant’s response to ExQ2.HW.2.1 [REP7-084] stated that the introduction of the fund was introduced following discussions with Community Foundations and the JLAs. Whilst we were pleased to see the introduction of the Hardship Fund at D7, despite both written questions and discussions during ISH9, the rationale behind the proposed level of funding remained unclear.
- 15.2.27. In addition, as discussed above, at ISH9 [EV20-015 and EV20-017] the Applicant confirmed that the level of funding was under review and at D9 an amended funding schedule was included within Schedule 7 [REP9-102]. Whilst we were pleased to see an increase in funding, during ISH9 [EV20-015 and EV20-017] the Applicant was asked to provide justification for the figures for the financial contributions in the draft s106 agreement schedules and additional information was provided by the Applicant at [REP8-111].
- 15.2.28. The detail provided in [REP8-111] was minimal, however the Applicant confirmed that the updated s106 agreement Explanatory Memorandum to be submitted at D9 would include justification for the final values of the financial contributions.
- 15.2.29. At D9 the ‘*Section 106 Agreement – Explanatory Memorandum*’ [REP9-106] was submitted into the Examination. However, this did not provide a justification for the final financial contributions. Rather it referred back to the ‘*Written Summary of Oral Submissions at ISH9: Socio-economics*’ [REP8-109] and the Applicant’s ‘*Response ISH9 Action Point 40*’ [REP9-119]. Neither of these documents provided a detailed financial justification. However, we note that the local authorities who were signatories to the s106 agreement have agreed to the monies proposed.
- 15.2.30. As such, we are satisfied that the provision of the Hardship Scheme and associated funding could provide a mechanism for the mitigation of potential health impacts on vulnerable residents. In addition, given the agreement reached between both the Applicant and the JLAs, we are satisfied that the use of a s106 agreement is an appropriate mechanism rather than that of a Requirement.
- 15.2.31. Furthermore, we consider that the provision of such the Hardship Scheme complies with the objectives within the ANPS and NNNPS, insofar as the Applicant has identified an appropriate measure to compensate for potential adverse health effects.

Air Quality – Ultrafine Particulates

- 15.2.32. In both the Joint Surrey Councils [REP1-097] and the Joint West Sussex [REP1-068] LIRs, concern was raised regarding the changes in concentrations of PM_{2.5} not

being a good indicator of the general risk associated with exposure to fine and ultrafine particulates (UFPs).

- 15.2.33. In addition, the issue of air quality, and particularly UFPs, was an issue of concern for several IPs throughout the Examination. Examples of representations made regarding this issue include, but are not limited to, [RR-0341], [RR-1581], [REP4-105], [REP9-223], [REP9-248].
- 15.2.34. Matters relating to air quality, including UFPs, were discussed during Issue Specific Hearing 7 (ISH7) [EV11-001]. The Applicant's response to actions arising from ISH7 [REP4-037] included a detailed technical response on UFPs and clarifications on other matters raised.
- 15.2.35. With regards to UFPs, the Applicant confirmed that:
- an UFP assessment had been undertaken, including of aviation and transport sources;
 - UFP monitoring, including a local monitoring study, was being proposed;
 - PM2.5 exposure is correlated to, or a proxy for, UFP exposure; and
 - it was appropriate to mitigate UFPs.
- 15.2.36. The Applicant also drew attention to the RR made by the UKHSA and OHID [RR-4687] which stated that "*Following our review of the submitted documentation we are satisfied that the proposed development should not result in any significant adverse impact on public health*".
- 15.2.37. The Applicant, in its Closing Submissions [REP9-112], confirmed that an air quality action plan, support for air quality monitoring and support for work on UFPs, was included in Schedule 1 of the s106 agreement with the LePAs [REP10-019].
- 15.2.38. However, at the close of the Examination we noted common ground had not been reached regarding the issue of UFPs in the following PADSS:
- Mole Valley District Council [REP9-154];
 - Tandridge District Council [REP9-171]; and
 - Reigate and Banstead Borough Council [REP9-166].
- 15.2.39. The above authorities accepted that the Applicant had agreed to an increase in funding for monitoring, but concern was raised that this would not be implemented prior to standards being published and the funding would not cover all costs for equipment purchase or operation. The authorities requested that proactive monitoring in advance of standards should be undertaken by the Applicant to gather a set of baseline data.

ExA's Conclusion on Ultrafine Particulates

- 15.2.40. In considering this issue, we are mindful of the concerns raised throughout the Examination in respect of the possible links from air pollution to health effects.
- 15.2.41. However, we note the RR [RR-4687] received from the UKHSA and OHID which clearly stated that their view of the Proposed Development was that it would not result in any significant adverse impact on public health and there is no evidence before us which leads us to disagree with this in respect of UFPs. Additionally, we are also mindful that the Applicant and the LePAs have reached agreement [REP10-019] on a range of measures that would support local air quality monitoring and further work in relation to UFPs, within the s106 agreement [REP10-019].

15.2.42. Regarding the outstanding areas of disagreement with the above authorities we do not consider they are sufficient to compromise the Proposed Development when compared with the requirements of the ANPS. As such we do not consider it therefore necessary to recommend changes to the Requirements in Schedule 2 of the dDCO [REP10-004] with respect to UFPs.

15.2.43. Further technical discussion on air quality as a wider topic is contained within Chapter 7 Air Quality of this Report.

Noise Insulation Scheme

15.2.44. Concerns were expressed by several local authorities in respect of the proposed Noise Insulation Scheme (NIS) from the start of the Examination [REP1-068, REP1-095 and REP1-097]. In addition, several representations were made by IPs during the Examination which also raised concern over the adequacy of the proposed NIS which includes, but is not limited to, the following [REP7-126], [REP8-149] and [REP9-223].

15.2.45. In the LePAs Closing Position Statement [REP9-151] the following were listed as being the primary remaining concerns:

- that the thresholds for the inner zone should be set at 60dB LAeq 16hr for daytime and 48 LAeq 8hr for nighttime noise exposure;
- the suggestion that alternative contours should be included in the criteria for eligibility, namely single mode contours, combined ground and air noise contours, and a one additional awakening contour;
- absence of review and assessment mechanisms within the scheme;
- the suggestion that there should be a voluntary acquisition scheme for residential properties inside the daytime air noise 69 dB LAeq 16h or night-time air noise 63 dB LAeq 8h contour; and
- consideration of overheating and ventilation issues.

15.2.46. Consideration of the above first four bullet points is discussed in Chapter 6 Noise and Vibration of this Report, which addresses the adequacy of the Applicant's NIS as a whole.

15.2.47. In respect of specific overheating and ventilation issues, concern was raised in the Joint West Sussex LIR [REP1-068] that no provision had been made to prevent overheating in residential properties subject to noise insulation measures as part of the NIS. Mole Valley District Council (MVDC) requested in its PADSS [REP5-101] that an overheating assessment was undertaken by the Applicant.

15.2.48. We asked the Applicant at ExQ2 HW.2.12 [PD-021] whether an overheating assessment was necessary. In response the Applicant stated [REP7-084] that due to the diverse range of housing stock, it would not be feasible to carry out any meaningful assessment of the risk of overheating to all affected properties. The Applicant explained that the potential for internal rooms to overheat because of noise insulation measures would be reduced due to the ventilation measures proposed within the acoustic package for properties where overheating would be considered a concern. The Applicant's approach to reducing overheating is set out in the NIS [REP8-086] and it would provide for thermal insulation to loft spaces and acoustic ventilators. However, the Applicant stated in its Closing Submissions [REP9-112] that ventilators do not completely negate the need to open windows in certain circumstances.

- 15.2.49. Despite the above justification, MVDC maintained its position that an overheating assessment was required to demonstrate adequacy of the ventilation scheme [REP9-154].

ExA's Conclusion on the Noise Insulation Scheme

- 15.2.50. At [PD-028] we issued our proposed schedule of changes to the dDCO. Included in this was our recommended requirement (R) 18 in our Recommended DCO (rDCO) and paragraph 1 of Schedule 2 in respect of interpretation. We are satisfied that the wording of our proposed R18 would address concerns regarding overheating.
- 15.2.51. However, based on the Applicant's final draft DCO we cannot be certain that such concerns regarding overheating would be adequately addressed as ventilators would not address the wish or need for occupants to open windows in certain circumstances.
- 15.2.52. As such, we have taken account of concerns about overheating arising from the NIS and while we do not consider that the Applicant's preferred approach would overcome these concerns, R18 in the rDCO, would satisfactorily address this matter.
- 15.2.53. Further technical discussion on noise and vibration as a wider topic is contained within Chapter 6 Noise and Vibration of this Report.

15.3. ExA's CONCLUSION ON HEALTH AND WELLBEING

- 15.3.1. We find that the Applicant's assessment of health and wellbeing has been appropriately undertaken in line with the requirements of paragraphs 4.70 to 4.73 of the ANPS and paragraphs 4.81, 4.82, 5.7 and 5.195 of the NNNPS.
- 15.3.2. In respect of mitigation, apart for the issue of overheating, we consider the Applicant has identified suitable means of mitigation. In terms of overheating, as detailed above, we do not find the Applicant's preferred approach to be satisfactory and consider the inclusion of R18 in the rDCO to be necessary.
- 15.3.3. In conclusion, we find that the Proposed Development would accord with the ANPS, NNNPS, other relevant legislation and policy requirements and we are satisfied that, with the inclusion of R18 in the rDCO, that mitigation would be adequately provided for and secured.
- 15.3.4. Consequently, with the inclusion of R18 the health and wellbeing effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order.
- 15.3.5. However, should R18 in the rDCO not be included, we consider that the health and wellbeing effects of the Proposed Development should attract minor weight against the making of the Order.

16. LAND USE AND RECREATION

16.1. THE APPLICATION

16.1.1. The Applicant's assessment of land use and recreation was primarily contained within Chapter 19 of the Environmental Statement (ES) [APP-044]. For the purposes of this assessment, this included:

- agricultural land quality and soils;
- farm holdings;
- public rights of way;
- national cycle routes;
- other walking, cycling and horse-riding routes; and
- open space.

16.1.2. Chapter 19 was supported by the following documents:

- ES Appendix 19.2.1: Summary of Local Planning Policy: Agricultural Land Use and Recreation [APP-209];
- ES Agricultural Land Use and Recreation Figures [APP-058]
- ES Appendix 19.3.1: Summary of Stakeholder Scoping Responses [APP-210];
- ES Appendix 19.6.1: Published Agricultural Land Classification Data [APP-211];
- ES Appendix 19.6.2: Soil Survey Results [APP-212];
- ES Appendix 19.6.3 Part A: 2019 Recreational User Survey [APP-213];
- ES Appendix 19.6.3 Part B: 2022 Recreational User Survey [APP-214]; and
- ES Appendix 19.8.1: Public Rights of Way Management Strategy [APP-215].

16.1.3. Several amendments were made to the Public Rights of Way Management Strategy during the Examination, with the final version submitted at Deadline (D) 9 [REP9-061].

16.1.4. Several measures were proposed as part of the Proposed Development to mitigate the potential impacts on land use and recreation. These measures are listed in Table 19.8.1 of the ES chapter [APP-044] and also the Mitigation Route Map [REP8-020].

16.1.5. As part of the proposed mitigation measures relating to potential adverse impacts during construction the Applicant submitted a Soil Management Strategy (SMS) [APP-086], which is Annex 4 of the Code of Construction Practice (CoCP). The Applicant confirmed that the purpose of the SMS was to "*...describe the methodology and control measures to be adopted during the construction of the Project. Detailed soil management plans would be developed in general accordance with the principles in this strategy, prior to the commencement of construction*" (para 1.1.2 of [APP-086]).

16.1.6. However, even with the proposed mitigation measures in place, the Applicant identified the below residual significant adverse effects would remain during the construction period 2024-2029 and for the interim assessment years 2030-2032:

- temporary diversion or disruption of public rights of way (PRoW) and on the Sussex Border Path;
- temporary diversion or disruption of national cycle route (NCR) 21;
- temporary disruption to the southern fringe of Riverside Garden Park; and
- temporary disruption to the southern and western fringes of Church Meadows.

16.2. ISSUES CONSIDERED DURING THE EXAMINATION

16.2.1. Over 70 Relevant Representations (RR) raised concerns in respect of potential land use and recreation impacts of the Proposed Development. Having taken these into account, alongside the submitted application documents, we considered that land use and recreation would be one of the initial principal issues for the Examination. The Initial Assessment of Principal Issues (IAP) is set out in Annex C of the Rule 6 letter [PD-009].

16.2.2. We considered that the following issues should be examined in greater detail:

- agricultural land and soil resources;
- replacement open space; and
- Museum Field, located at the Gatwick Aviation Museum, Charlwood.

Agricultural Land and Soil Resources

16.2.3. The Applicant confirmed in ES Chapter 19 [APP-044] that during both the initial construction period (2024-2029) and the 2030-2032 period, there would be temporary agricultural land take associated with the start of construction of the South Terminal roundabout improvements. This would affect land to the north of the existing South Terminal roundabout (STR), together with the placement of spoil material on Pentagon Field. Whilst this land take would result in a temporary loss of approximately 12.1 hectares (ha), the loss would be of lower quality subgrade 3b land.

16.2.4. In terms of permanent agricultural land take, this would be primarily associated with ground lowering to create a flood compensation area within Museum Field, land required for the STR, Longbridge Roundabout improvements and associated drainage works. This would equate to approximately 10.1ha.

16.2.5. In terms of both the temporary and permanent agricultural land take, the Applicant further confirmed that no Best and Most Versatile (BMV) land resources would be affected (paras 19.9.2 and 19.9.4 of [APP-044]).

16.2.6. In addition to the above land take, there would also be a permanent loss of agricultural land from six land holdings. ES figures 19.6.3a and 19.6.3b [APP-058] shown below, depict the farm holdings plan.

Figure 16.128: Agricultural Land Holdings Plan Figure 19.16.3a

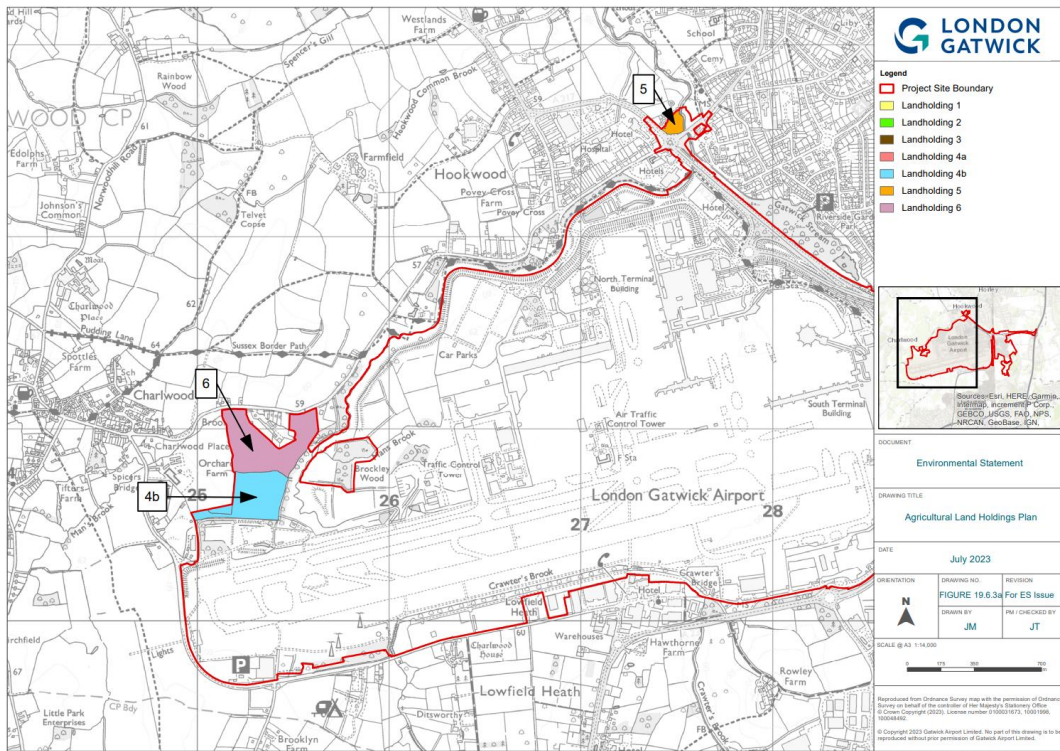
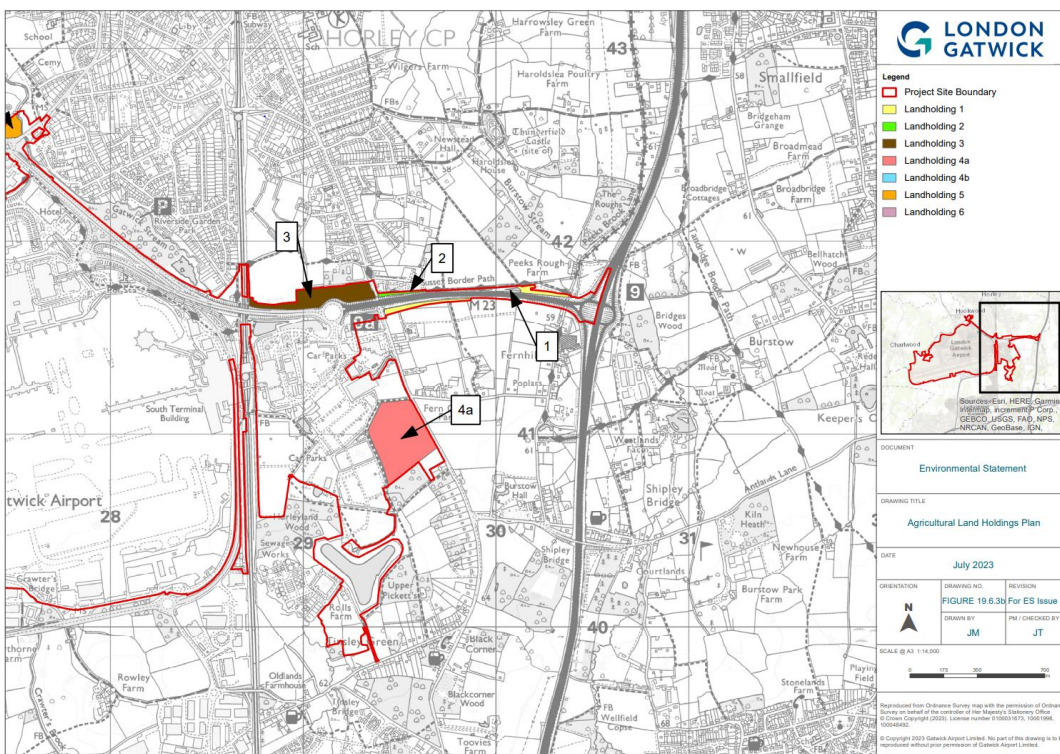


Figure 16.229: Agricultural Land Holdings Plan Figure 19.16.3b



16.2.7.

It was confirmed by the Applicant that although there would be some permanent loss of land from all six holdings during the initial construction period, the loss would not result in any significant adverse effects in respect of existing farming activities (para 19.9.16 of [APP-044]). In response to question LU.1.12 in the first round of

written questions (ExQ1) [REP3-096], at Appendix A the Applicant provided further detail regarding each of the holdings and confirmed the proposed land take and land classification within the plots to be affected.

16.2.8. In response to ExQ1.LU.1.2 [REP3-096], the Applicant also confirmed that as the quality of the agricultural land to be affected by the Proposed Development would comprise entirely of lower quality subgrade 3b land, it would satisfy the tests at paragraph 5.168 of the National Networks National Policy Statement (NNNPS), as no BMV land in grades 1, 2 or 3a would be affected by the Proposed Development.

16.2.9. As previously commented on, the SMS [APP-086] sets out the Applicant's approach to soil management. In response to ExQ1.LU.1.5 the Legal Partnership Authorities (LePAs) [REP3-135] confirmed that the overall content of the SMS was acceptable, and it was based on the Institute of Quarrying best practice guidance as well as the DEFRA Code of Practice on Sustainable Use of Soils in Construction Sites. However, several comments were raised by the LePAs in respect of soil stripping activities and aftercare considerations. A detailed response to the concerns raised was provided by the Applicant at D4 [REP4-031] which provided supplementary information where necessary, clarification and/ or signposting to where information in the SMS already existed in respect of concerns raised. No further comments were received by the LePAs in respect of this specific issue.

16.2.10. A Soil Management Plan (SMP) would also be required prior to the commencement of the construction. This would be secured by Requirement (R) 29(1)(a) of the Applicant's final dDCO [REP10-004] and must be substantially in accordance with the SMS.

ExA's Conclusion on Agricultural Land and Soil Resources

16.2.11. Whilst we note that there would be some elements of permanent agricultural land loss as a result of the Proposed Development, this would be relatively minimal in scale and would not result in any loss of BMV agricultural land.

16.2.12. As such we are satisfied that the Applicant has, in line with paragraphs 5.168 of NNNPS and 5.115 of the Airports National Policy Statement (ANPS), sought to minimise impacts on BMV agricultural land by utilising poorer quality land.

16.2.13. We consider that appropriate measures to safeguard soil resources and ensure effective reinstatement where necessary are secured through the need for submission and approval of a SMP that is required under R29 of the Applicant's final dDCO. We consider that this represents a reasonable approach to ensuring that soil resources would be safeguarded during construction operations and that areas of temporary land take would be properly and promptly restored post-construction.

Replacement Open Space

16.2.14. In the Statement of Reasons [REP9-009], the Applicant confirmed that the following areas of open space would need to be acquired permanently for the delivery of the Proposed Development:

- 1.01ha at Riverside Garden Park - This area was calculated on a precautionary basis as it includes land currently within the highway embankment where there would be a loss of mature vegetation adjacent to and along the existing highway. The area of land affected within the park, not including land within the highways boundaries, comprises a smaller area of approximately 0.34ha. This

area would be required to deliver the highway improvement works to the A23 London Road;

- 0.02ha south of Brighton Road - This is a small area located at the confluence of the River Mole and Gatwick Stream immediately to the south of the A23 Brighton Road near to Longbridge Roundabout. It can only be accessed using a pedestrian gate located next to the A23 Brighton Road and by negotiating a steep earth bank. This area would be required to deliver the highway improvement works to the Longbridge Roundabout junction; and
- 0.13ha of Church Meadows - This area is adjacent to St Bartholomew's Church and to the south of the former Horley Anderson Centre and Playing Fields. It is located immediately to the north of the A23 Brighton Road and to the east of the River Mole. This area would be required for the Proposed Development to deliver the highway improvement works to the Longbridge Roundabout junction.

16.2.15. As a result of the permanent acquisition of the above open space, the Applicant proposed that the below areas of land would be developed as replacement open space as part of the Proposed Development:

- 0.52ha west of Church Meadows - A pasture located to the west of Church Meadows and the River Mole would be developed to provide replacement open space. A pedestrian bridge over the River Mole would be provided to allow access from Church Meadows. Access would also be provided in the southwestern corner of the area, accessed from the shared use pedestrian and cycle route that has recently been constructed in this location; and
- 1.43ha at Car Park B - The existing Car Park B, which includes land both to the north and south of the A23 London Road, would be developed to provide replacement open space. The replacement open space would be provided in a similar nature to the existing Riverside Garden Park. A new additional pedestrian route linking Riverside Garden Park to Car Park B and to the Sussex Border Path would also be provided, located to the west of the railway line north of the A23 London Road. Direct access to the open space would be provided from the Sussex Border Path to the northern part of the replacement open space and from the NCR 21 to the southern part.

16.2.16. In addition to the permanent acquisition of the above open space, the following areas of open space land would also be subject to the acquisition of rights for the delivery of the Proposed Development:

- 0.47ha at Riverside Garden Park;
- 0.01ha south of Brighton Road; and
- 0.36ha of Church Meadows.

16.2.17. The majority of the rights to be acquired would be required in respect of the delivery of the highway improvement works to the A23 London Road, the Longbridge Roundabout junction and to also construct and maintain the proposed River Mole pedestrian bridge for access to the replacement open space to the west of the River Mole. As these are only required temporarily, s132(4b) of the Planning Act 2008 (PA2008) is satisfied and no replacement land would be required.

16.2.18. In respect of rights being acquired to subsequently maintain the pedestrian bridge longer term, the Applicant stated that the rights would not render the land in question any less advantageous than it currently is. The rights would allow the undertaker (or a person under its direction) to enter onto the land periodically to inspect and, if necessary, repair the bridge. The Applicant maintained that as this would not prevent the land from being used for recreation by members of the public in the manner it currently is, s132(3) of the PA2008 had been complied with and no

replacement land would be required [REP9-009]. Further detail in respect of the compulsory acquisition of such land is detailed within Chapter 21 of this Report.

- 16.2.19. Throughout the Examination concern was raised by Reigate and Banstead Borough Council, Crawley Borough Council (CBC) and Surrey County Council (SCC) in respect of the delivery, design, and maintenance of the proposed open space land adjacent to Church Meadow and Car Park B, north and south [REP1-068 and REP1-097].
- 16.2.20. Following discussions with the Applicant, it was confirmed that none of the authorities wished to own the replacement land and/ or have any associated management or monitoring obligations. As such, we requested that the Applicant amended Article 40 within the dDCO to ensure that the future maintenance of the replacement open space would be assured indefinitely by the Applicant [PD-028]. The Applicant provided this commitment in the revised dDCO at D9 [REP9-004].

ExA's Conclusion on Replacement Open Space

- 16.2.21. We are satisfied that the areas of replacement open space would be in proximity to those areas of land which would be acquired and therefore would be accessible to those communities currently served by the existing open space. The provision of the proposed footpath link from Riverside Garden Park to Car Park B and also the provision of a pedestrian footbridge from Church Meadows into the land to the west of the River Mole would ensure that accessibility by foot is maintained.
- 16.2.22. We also note that the replacement open space would comprise a significantly larger area of open space when compared to the areas which would be permanently acquired for the Proposed Development. Additionally, the provision of the replacement open space in Car Park B could potentially improve the accessibility to and the quality of the Sussex Border Path where it currently runs along the western boundary of the London to Brighton railway line.
- 16.2.23. It is also noted that the replacement open space would be delivered in accordance with the open space delivery plan, which is required to be submitted to, and approved in writing by, CBC under Article 40 of the dDCO [REP10-004]. Further detail in respect of proposed landscaping and planting for each of the open space areas are detailed within the outline Landscape and Ecology Management Plan (oLEMP) [REP9-047], which would be secured by R8 of the dDCO [REP10-004].
- 16.2.24. Whilst the Applicant is not relying on the provision of 'replacement land' in the statutory sense under s131(4) of the PA2008 to which this definition applies (section 2.2 of [REP9-104]), we are satisfied that the test in paragraph 5.194 of NNNPS is met, insofar as the proposed exchange land is "...at least as good in terms of size, usefulness, attractiveness, quality and accessibility."
- 16.2.25. As such, we are satisfied that the Applicant has, in line with paragraph 5.123 of the ANPS, taken appropriate mitigation measures in respect of open space and considered opportunities to improve accessibility.
- 16.2.26. In respect of the ownership issue regarding the replacement open land, we are satisfied that an appropriate resolution between the parties had been reached by the close of the Examination. We consider the wording of Article 40 in the dDCO, including the need to deliver an open space delivery plan, to be appropriately drafted and secured.

Museum Field

- 16.2.27. There would be permanent land take associated with the provision of the flood compensation area in Museum Field. However, the Applicant proposed the provision of a new circular recreational route around the flood compensation area to the east of Museum Field, with a link to the current permissive pedestrian route along the western bank of the River Mole which would connect to the existing alignment of the Sussex Border Path, which is depicted in Figure 16.3 below [REP9-047]. The commitment to the provision of the footpath is included at paragraph 4.4.2 of the oLEMP [REP9-047], which is secured by R8 of the Applicant's final dDCO [REP10-004].

Figure 16.330: Museum Field Sketch Landscape Concept 31



- 16.2.28. However, throughout the Examination concern was raised by CBC in respect of the proposed route. In its Local Impact Report (LIR) [REP1-068] CBC acknowledged that there would be the creation of an informal recreation space, by allowing permissive public access for the local community onto the site once the flood compensation area had been created and the site re-landscaped. However, CBC also commented on the level of accessibility and relative recreational value of the area due to the relatively poor condition of the current permissive path to the site. As such, CBC stated that the Applicant should consider the creation of a new path onto Horley Road to allow the Museum Field to be more readily accessible to nearby residents and assist in the connectivity of newly created wildlife / recreational assets as it was currently very poorly connected to the existing PRoW network [REP1-068].

- 16.2.29. In response to the concerns raised, we asked questions to both CBC and the Applicant in respect of the feasibility of improving accessibility at this location (ExQ1.LU.1.13 [PD-012] and ExQ2.LU.2.5 [PD-021]). Both parties provided

responses [REP3-096, REP7-086 and REP7-110] and confirmed that discussions were being held to try to resolve the issue.

- 16.2.30. At the close of the Examination the Applicant confirmed that it had reviewed the possibility of providing an entrance to its future landholding at Brook Farm via a bridge to cross the ditch in the highway verge to connect to a new permissive path. This would enable pedestrians to exit on to Horley Road from Brook Farm and then cross the road to travel on existing footways towards Charlwood. However, the Applicant also identified potential issues from a road safety perspective. In their Statement of Common Ground (SoCG), both CBC and the Applicant agreed that SCC would review the situation in the context that the entrance would not be part of the designated PRow network. Similar crossings exist in rural Surrey and a simple footbridge to the ditch and entrance through the hedgerow were all that was proposed to facilitate enhanced recreational use for pedestrians. SCC confirmed that they would contact the Road Safety Audit team to confirm whether a full audit would be required to create a link in the area [REP9-066].
- 16.2.31. SCC provided details of simple bridge designs and information about gate accesses and requested that the Applicant provide formal drawings and a detailed brief so that SCC could undertake an assessment. However, the Applicant stated that given the advanced stage of the Examination, it would not be possible to prepare and receive feedback on potential access locations and arrangements within the timeframe available or to include further detail within the oLEMP. Despite this, in the SoCG the Applicant confirmed it would remain open to facilitating a link post the landholding coming into its ownership and after any necessary habitat and other ground preparation works had been undertaken [REP9-066].

ExA's Conclusion on Museum Field

- 16.2.32. It is disappointing that given this issue was identified at the start of the Examination, limited progress had been made in respect of a possible opportunity to improve accessibility and recreational opportunities in this location and that this matter therefore remains unresolved between parties at the close of the Examination.
- 16.2.33. Whilst we consider an opportunity may have been lost to improve accessibility, it is accepted that there is a clear commitment in the oLEMP [REP9-047] to provide a circular route with a link to the existing permissive path by the Applicant and that this is adequately secured in the dDCO. As such, we are satisfied that the existing accessibility situation would not be degraded because of the Proposed Development.
- 16.2.34. Whilst a resolution may be reached between parties, any further submission from CBC or the Applicant would be after the close of the Examination. As such, this would not be able to be considered as part of our Recommendation but may be available to the Secretary of State, who may wish to follow this matter up prior to making a decision.

16.3. ExA's CONCLUSION ON LAND USE AND RECREATION

- 16.3.1. We find that the Applicant's assessment of land use and recreation has been appropriately undertaken in line with the requirements of paragraphs 5.115 and 5.123 of the ANPS and paragraphs 5.168 and 5.180 of the NNNPS.
- 16.3.2. Additionally, given that BMV land is a finite national resource, we are satisfied that there would be no loss of this resource. We also consider the Applicant has taken

appropriate measures to safeguard soil resources and ensure effective reinstatement is secured through the need for submission and approval of a SMP prior to the commencement of construction, which would be secured by R29.

- 16.3.3. Further mitigation, provided through R8 of the recommended DCO, would also ensure the appropriate delivery of replacement open space as required through paragraph 5.181 of the NNNPS.
- 16.3.4. In conclusion, we find that the Proposed Development, in respect of land use and recreation, would accord with the ANPS, NNNPS and other relevant legislation and policy requirements.
- 16.3.5. Consequently, the land use and recreation effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order.

17. OTHER MATTERS

17.1. INTRODUCTION

- 17.1.1. Other matters where no significant issues were identified are discussed in this Chapter, including consideration of alternatives, geology and ground conditions, health and wellbeing, major accidents and disasters, resource and waste management and cumulative and combined effects.

17.2. CONSIDERATION OF ALTERNATIVES

OVERVIEW

- 17.2.1. Environmental Statement (ES) Chapter 3 sets out the Applicant's Consideration of Alternatives [APP-028]. It sets out the main reasons for the options selected for the Proposed Development and the reasons for not opting to select the other alternatives considered, including a 'do minimum' scenario. ES Chapter 3 is supported by ES Appendix 3.5.1: Options Appraisal Tables [APP-073] and ES Appendix 3.5.2: North Terminal Roundabout Options Development [APP-074].

MASTERPLAN ALTERNATIVES

- 17.2.2. The Applicant considered three scenarios (Section 3.4, [APP-028]) for the long-term growth and development of the airport as set out in the following paragraphs.

Scenario 1

- 17.2.3. In this 'do minimum' scenario the airport remains a single-runway operation using the existing main runway. This scenario would use technology to increase the capacity of the main runway, leading to incremental growth through more efficient operations.
- 17.2.4. The Applicant explained that although the airport could grow with the existing single-runway operation, this growth would be constrained by the limits on available runway capacity. This option was developed as the future baseline and is discussed above in section 4.3 of this Report.

Scenario 2

- 17.2.5. In this scenario the existing northern runway is routinely used together with the main runway. This scenario proposed that a strip of additional pavement is laid to the northern edge of the existing northern runway, moving its centreline 12m north of its current position enabling dual operation of the main runway and northern runway together to increase the number of aircraft movements.
- 17.2.6. The Applicant considered that Scenario 2 offered the optimum approach to making best use of existing runways and increasing airport capacity.

Scenario 3

- 17.2.7. In this scenario the Applicant continues to safeguard for an additional runway to the south of the airport. The additional runway scenario would require development of the land to the south of the airport as well as significantly more changes to the existing airport and surrounding roads.
- 17.2.8. The Applicant considered that this scenario would likely lead to adverse effects of a greater magnitude on ecology, landscape, agriculture, recreation, ground

conditions, the water environment and historic environment, traffic and transport, noise, air quality and greenhouse gases compared to scenarios 1 and 2.

- 17.2.9. The Applicant explains in its conclusion (Section 3.7, [APP-028]) that it is not actively pursuing scenario 3 in light of the Government's support for the third runway at Heathrow but still considers it to be in the national interest for land to continue to be safeguarded to allow for a new runway to be constructed, if required in the future.

DESIGN AND TECHNOLOGY ALTERNATIVES

- 17.2.10. The Applicant undertook an options appraisal for the design and layout of the various components that make up the Proposed Development as listed below:

- runways;
- end around and exit/ entrance taxiways;
- aircraft holding areas;
- terminals (including International Departure Lounge);
- piers and stands;
- hangars;
- hotels, offices and car parks;
- foul water;
- surface water drainage;
- fluvial flood risk mitigation;
- displaced facilities: waste management, engine running areas and rendezvous point;
- Longbridge Roundabout;
- North Terminal Roundabout;
- South Terminal Roundabout;
- rail access;
- Inter Terminal Transit System;
- surface access: forecourts;
- active travel (travel routes for pedestrians and cyclists);
- airfield construction compounds; and
- highways construction compounds.

- 17.2.11. The Applicant assessed options against criteria in Table 3.4.1 (Page 6, [APP-028]) and applied a scoring system using its professional judgement and experience of the site and surrounding area. The detailed assessment is set out in ES Appendix 3.5.1: Options Appraisal Tables [APP-073] and a summary of the alternatives considered by the Applicant for each component is contained in ES Chapter 3 (Section 3.6, [APP-028]).

- 17.2.12. The options identified as performing best against the assessment criteria (para 3.6.246, [APP-028]) were taken forward to form the design of the Proposed Development. The Applicant concludes that the selected design and layout options offer a sustainable approach to providing greater operational resilience at Gatwick and improved UK airport capacity.

ExA's CONCLUSION ON CONSIDERATION OF ALTERNATIVES

- 17.2.13. Other than queries over whether the proposal complied with Making Best Use (MBU) policy and whether the proposal would undermine the Airports National Policy Statement (ANPS) in terms of whether the Proposed Development would be an alternative to the London Heathrow (LHR) North West Runway (NWR) scheme, the consideration of alternatives was not a substantial issue at Examination.

- 17.2.14. In response to ExQ1 GEN1.4, the Applicant explained [REP3-091] that the three scenarios were developed and consulted upon as part of the Applicant's draft 2019 Master Plan, and that, while Scenario 2 was chosen, Scenarios 1 and 3 were valid and realistic alternatives to the question of how the Airport could develop to accommodate increased demand.
- 17.2.15. Questions were raised over the continued safeguarding of a future southern runway (Scenario 3) at ExQ1 and ExQ2. The Applicant confirmed that [REP3-091]:
- They were no longer actively pursuing such plans but stated that there remains a possibility of building and operating one in the future but no further work on the proposal has taken place since 2015.
 - The land for this runway has been safeguarded in local planning policy since 2007. The Draft Crawley Borough Local Plan confirms that land is still required to be safeguarded and draft policy GAT2 identifies this land. The principle of continued safeguarding has been established and releasing this would be contrary to the APF, Aviation 2050 (2018) and the National Planning Policy Framework (NPPF).
- 17.2.16. A follow up question in ExQ2 queried whether policy still supported safeguarding of the land. The Applicant stated that it did [REP7-083], because:
- Aviation 2050 (which post-dates the ANPS) confirms at para 3.66 that it is prudent to continue with a safeguarding policy to maintain a supply of land for future national requirements and to ensure that inappropriate developments do not hinder sustainable aviation growth, and that the NPPF supports this where there is robust evidence, sites and routes; and
 - The Local Plan Inspectors have stated that *"on the fundamental issue of the need to safeguard land to deliver an additional wide spaced runway, we consider the combination of the 2019 Airport Masterplan and the ongoing process of clarifying the need for additional runway capacity in the southeast as instigated through the 2018 draft Aviation Strategy 'Aviation 2050: The Future of UK Aviation' (which postdates the Airports National Policy Statement (June 2018)) to meet a minimum threshold for the 'robust evidence' required by NPPF paragraph 106 c) for safeguarding"*.
- 17.2.17. The ANPS states that the Applicant should comply with all legal obligations and policy set out in the ANPS on the assessment of alternatives, and that in particular:
- The Environmental Impact Assessment Directive requires projects with significant environmental effects to include a description of the reasonable alternatives studied by the applicant which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the project on the environmental effects;
 - There may also be other specific legal obligations requiring the consideration of alternatives, for example, under the Habitats and Water Framework Directives; and
 - There may be policies in the Airports NPS requiring consideration of alternatives, for example the flood risk sequential test.
- 17.2.18. In relation to highways works, the same text is contained within the National Networks National Policy Statement (NNNPS).

- 17.2.19. The ExA considers that all questions raised were answered satisfactorily by the Applicant and that the application considered realistic alternatives, given the constricted nature of the site and the specifics of the Proposed Development.
- 17.2.20. In relation to HRA considerations, the ExA notes in Chapter 19 of this Report that adverse effect on integrity on all relevant sites and their qualifying features can be excluded. From conclusions in Chapter 11, in respect of flood risk, the ExA finds the Applicant has demonstrated compliance with the requirements of the ANPS and also the NNNPS in relation to the highway improvement elements of the Proposed Development.
- 17.2.21. Issues regarding the MBU and ANPS in relation to the LHR NWR are dealt with elsewhere in this Chapter. In relation to the safeguarding of the wide spaced second runway, the conclusions of the Local Plan inspectors are noted and agreed with. Depending on the ultimate decision on the Proposed Development and future implementation (or otherwise) of the LHR NWR this may change in the future.
- 17.2.22. The ExA considers that there are no matters relating to site selection and alternatives which would weigh for or against the Order being made.

17.3. GEOLOGY AND GROUND CONDITIONS

INTRODUCTION

- 17.3.1. This Section considers the potential effects of the Proposed Development in relation to geology and ground conditions.

THE APPLICATION

- 17.3.2. The Applicant's consideration of effects associated with geology and ground conditions during the construction and operation of the Proposed Development is presented in its ES Chapter 10: Geology and Ground Conditions [APP-035]. In addition, the Code of Construction Practice (CoCP) [REP9-031] contains details of how the Applicant would manage any hazards during construction.
- 17.3.3. The Applicant concludes in Table 10.13.1 [APP-035] that any effects during construction and operation are not significant.

ISSUES CONSIDERED DURING THE EXAMINATION

- 17.3.4. In the Joint West Sussex Local Authorities (JWSLAs) LIR [REP1-068] the Councils raised concerns with regard to the potential sterilisation of safeguarded clay, and whether the mitigation measures were sufficient to meet the ANPS paragraph 5.121 requirement for appropriate mitigation.
- 17.3.5. Through our first written questions (ExQ1) [PD-012] we asked the Applicant whether the landscape and visual design impact of slope stabilisation works, should they be required as a result of ground stability assessment, had been considered in the ES and if so where.
- 17.3.6. The Applicant's response [REP3-093] said that:
- further intrusive ground investigation would be undertaken prior to detailed design and suitable design parameters would be derived for any slope stability assessment as set out in the CoCP [REP9-031] and secured by Requirement 7 in the dDCO [REP10-004];

- from a design and visual impact perspective a reasonable worst-case scenario had been assessed which assumed the removal of all existing vegetation within the road corridor; and
- should a need for slope stabilisation works be identified at the detailed design stage, measures that may be considered could include additional drainage, slope gradient modifications, and reinforcement of the formation.

17.3.7. On the matter of mitigation in relation to potential sterilisation of safeguarded clay the Applicant said that these were included in the draft Statement of Common Ground (SoCG) with West Sussex County Council (WSSCC) [REP1-033] who it would continue to engage with.

17.3.8. In the SoCG with WSSCC [REP9-084] the Applicant confirmed that the Construction Resources and Waste Management Plan (CRWMP), appended to the CoCP [REP9-031], had been updated to include mineral safeguarding policies with regards to the Weald Clay formation. WSSCC welcomed this amendment that ensured that incidental extraction of safeguarded brick clay would be given due consideration.

17.3.9. The Legal Partnership Authorities (LePAs) Closing Statement [REP9-151] contained no references to outstanding geology and ground condition matters.

ExA's CONCLUSION ON GEOLOGY AND GROUND CONDITIONS

17.3.10. We consider that the CoCP [REP9-031] as secured by Requirement 7 in the dDCO [REP10-004] is sufficient to address effects relating to geology and ground conditions and conclude that neutral weight should be given to the issue of geology and ground conditions in the overall planning balance of the Proposed Development.

17.4. MAJOR ACCIDENTS AND DISASTERS

INTRODUCTION

17.4.1. This Section considers the potential effects of the Proposed Development in relation to major accidents and disasters.

THE APPLICATION

17.4.2. The Applicant's assessment of the vulnerability of the Proposed Development to risks of major accidents and disasters both during construction and operation was contained within ES Chapter 5 - Appendix 5.3.4 [APP-089]. In addition, the CoCP [REP9-031] contains details of how the Applicant would manage any hazards during construction and outlines the existing plans and procedures at the airport.

ISSUES CONSIDERED DURING THE EXAMINATION

17.4.3. In excess of 60 Relevant Representations (RR) referred to the potential safety implications resulting from the Proposed Development. The majority were concerned about the safety of dual runway operations and that the airport was losing its 'emergency' runway. A small number were of the view that the Proposed Development would be safer, and two representations were concerned about the potential for increased terrorism.

17.4.4. The Joint Surrey Councils (JSCs) LIR [REP1-097] concluded that although additional aircraft movements would be taking place, the *"hazard/ impact would remain the same as currently assessed"*.

- 17.4.5. In the JWSLAs LIR [REP1-068] the Councils asked for consideration of the potential impact of the Proposed Development on the West Sussex Fire and Rescue Service (WSFRS). The Applicant [REP3-078] responded that fire prevention and emergency measures currently employed as part of existing operations would be in place and extended to the Proposed Development. It also stated that during construction, the contractor would comply with the requirements of the local fire authority. Specific fire prevention measures would be developed, as explained in Section 4.10 of the CoCP [REP9-031]. The Applicant's intent was to give an indication of future project risk management through a description of present-day (and well-established) practice.
- 17.4.6. Discussions continued between the Applicant, WSCC and WSFRS relating to the concerns expressed. The signed WSCC SoCG [REP9-084] records that all matters were agreed, and the ongoing engagement would take place with WSFRS during development of the detailed design and construction.
- 17.4.7. In terms of overall aircraft safety and any potential terrorist threat relating to the Proposed Development the Applicant [REP1-048] in Table 4.20.1 responded to the concerns expressed about increased major accidents stating *“Existing emergency response arrangements at Gatwick Airport will be extended to cover operations on the Northern Runway following implementation of the Northern Runway Project (NRP). The NRP will result in an increase in passenger numbers and total aircraft movements, however, it won't introduce fundamentally new or “bigger” hazards than those already taken into account in the airport's emergency planning.”*
- 17.4.8. The Applicant [REP1-048] also responded in Table 4.20.1 that *“An emergency or stand-by runway is not a Civil Aviation Authority (CAA) requirement and many other airports do not have one. Should circumstances arise where an aircraft could not use the runway(s) at Gatwick Airport, for whatever reason, it would be diverted to an alternative airport.”* The Applicant reiterated this response in reply to our question ExQ1.MAD.1.1 [PD-012]. In addition, the CAA [REP3-111] responded to the same question *“Although this question was not addressed to the CAA, we do not agree that the change of the ‘emergency’ second runway to an operational runway will potentially compromise safety at the airport. Gatwick, as with all airports, has established procedures in place should a runway need to be closed and these are not solely reliant on the use of its northern runway.”*
- 17.4.9. In question ExQ1.MAD.1.2 [PD-012], we asked about the impact of the Proposed Development on the airfield Public Safety Zone. The Applicant [REP3-100] answered *“The dimensions and shape of the public safety zone (PSZ) will stay the same but the zone itself will shift 12m to the north to correspond to the realigned northern runway centreline. Nothing will change in relation to the Northern Runway PSZ - with the Northern Runway restricted zone (PSRZ) remaining within the airport boundary and the controlled zone (PSCZ), extending up to 1,500 metres beyond the airfield boundary aligned with the runway centreline where the general presumption against new or replacement development and / or changes of use of existing buildings will apply. There are no existing buildings within the Northern Runway PSCZ”.*
- 17.4.10. From the above submissions, the ExA understands that in terms of major accidents and disasters the Proposed Development would not introduce any new risks that could not be dealt with by the airport's existing emergency procedures. In addition, the loss of the standby runway would also not present any new additional risks.

ExA's CONCLUSION ON MAJOR ACCIDENTS AND DISASTERS

- 17.4.11. Gatwick Airport is already a busy airport with well-established safety plans and procedures. The Applicant has set out that the increase in passenger numbers and aircraft movements does not present any additional impacts that would not be addressed by these existing plans and procedures.
- 17.4.12. This is further evidenced by the agreement of the CAA [REP3-111] in response to our question ExQ1.CS.1.2 [PD-012]. It stated, *“that there are no obvious safety-related impediments why the project should not progress with respect to safety considerations at the Airport.”*
- 17.4.13. As set out above during construction the Applicant's emergency procedures will be developed in accordance with the CoCP [REP9-084]. The CoCP would be a certified document listed in Schedule 14 and secured by Article 52 of the rDCO.
- 17.4.14. Taking all of these matters into account the ExA consider that the Proposed Development would accord with the ANPS and other relevant legislation and policy requirements. On that basis the ExA conclude that the Proposed Development would have a neutral effect in the planning balance.

17.5. RESOURCE AND WASTE MANAGEMENT

THE APPLICATION

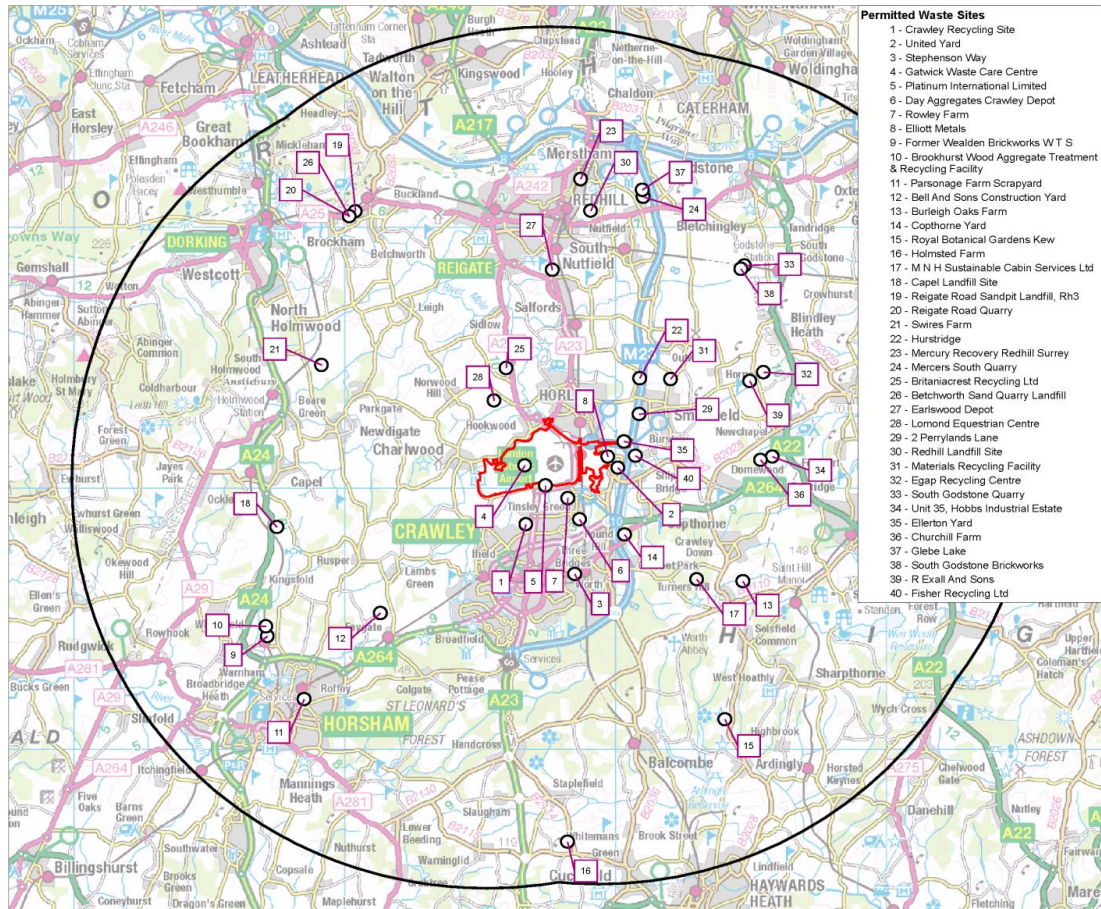
Overview

- 17.5.1. The Applicant's ES did not include a separate chapter for resource and waste management. Instead, the Scoping Report [APP-092] stated that a waste management strategy, including a Site Waste Management Plan (SWMP), would be produced, and included as a technical appendix to the ES.
- 17.5.2. A CRWMP [APP-087] was submitted as an annex to Appendix 5.3.2 of the ES (CoCP). ES Chapter 5: Project Description [REP9-026] provides approximate figures for excavated materials in construction and describes the alterations to the operational waste management facilities.

Baseline

- 17.5.3. ES Chapter 5 [REP9-026] explains that operational waste from Gatwick (both airside and landside) is currently taken to the existing Central Area Recycling Enclosure (CARE) facility which comprises a food waste to energy plant that produces heat for use within the facility and is located within an area of the existing airfield to the north of Taxiway Juliet. Facilities include the existing waste processing building (including a biomass boiler), compound area, materials recovery facility and bin store.
- 17.5.4. The CRWMP [APP-087] provides details of the existing waste management facilities within 15 km of Gatwick Airport and Figure 17.1 below shows the location of these facilities.

Figure 17.132: Waste Sites Within 15km in 2019



17.5.5. The CRWMP (para 5.2.14, [APP-087]) states that although shortfalls in capacity have been identified for some waste facilities in West Sussex, the 2021/ 2022 monitoring plan indicates that additional capacity has become available or will become available in the short term.

Construction Phase

Resources

17.5.6. The Applicant identifies in the CRWMP (para 4.5.1, [APP-041])that most opportunities to maximise resource efficiency and minimise the amount of waste occur during the detailed design stage. It states that detailed design of the new buildings and structures would seek to maximise resource efficiency by considering circular economy principles, such as:

- building in layers (ensuring that different parts of the building are accessible and can be maintained and replaced where necessary);
- designing out waste;
- designing for longevity;
- designing for adaptability or flexibility;
- designing for disassembly; and
- using systems, elements and materials that can be reused or recycled.

17.5.7. Regarding excavated materials, the CRWMP (para 4.5.10, [APP-087]) states that the overall objective for managing earthwork materials would be to maximise material reuse, reduce truck movements in handling materials, and reduce the amount of material that would need to be taken for management off-site.

- 17.5.8. Annex B of the CRWMP contains the template for a resource management plan which would be used to record resource management during construction as an internal control document.
- 17.5.9. Chapter 16 of the ES [APP-041] contains the Applicant's assessment of Greenhouse Gas (GHG) emissions in construction, including the extraction, processing, manufacturing and transportation of construction resources. The Applicant concludes that impacts associated with construction emissions are minor adverse and therefore not significant. See Chapter 8 of this Report for further detail on the assessment of GHG emissions.

Waste

- 17.5.10. Approximate quantities of excavated materials in the construction phase are provided in ES Chapter 5 (paras 5.3.137 to 5.3.139, [REP9-026]). The Proposed Development would produce approximately 1.5 million cubic metres (m³) of excavated materials. Where possible this would be recycled and reused within the Proposed Development site.
- 17.5.11. The Applicant estimated that up to 670,000m³ of excavated materials would need to be removed from the Proposed Development site. A further 235,000m³ of potentially contaminated material would also require removal to appropriately licensed facilities offsite.
- 17.5.12. The volume of concrete and asphalt would be approximately 620,000m³. Approximately 555,000m³ of this would be crushed at the reprocessing area at Car Park Y, whilst approximately 65,000m³ is estimated to be contaminated requiring removal to appropriately licensed facilities offsite.
- 17.5.13. The CRWMP (para 5.2.14, [APP-087]) states that as all the waste forecasts for the Proposed Development have not yet been defined, it cannot be confirmed if the capacity of waste facilities in West Sussex would be sufficient to manage waste from the Proposed Development in line with the principle of net self-sufficiency.

Operational Phase

- 17.5.14. The existing CARE facility is proposed to be demolished and re-provided (Work No. 9 in the dDCO [REP10-004]). The existing facility would remain in operation until the new facility has been commissioned.
- 17.5.15. The application documents did not include projections or forecasts for waste amounts expected in the operational phase.

CARE Facility as Originally Submitted

- 17.5.16. As originally proposed, the replacement CARE facility would process food waste for energy (heat), as does the current facility, although to provide for growth associated with the Proposed Development it would need to process a larger volume of food waste. There would be two biomass boilers (one pre-existing to provide for the relocated 650 kw plus an additional 450 kw to provide for growth) [REP9-026].

CARE Facility Change Request

- 17.5.17. As described in Section 1.6 of this Report, through a formal change request, Project Change 2 [AS-139] proposed a reduction in height of the proposed replacement CARE facility and change in the purpose of the CARE facility. This proposed the

removal of the incineration of waste on site, changing the CARE facility to become a waste sorting facility only.

ISSUES CONSIDERED DURING THE EXAMINATION

Construction Phase

Waste Arisings

- 17.5.18. The ExA raised concern in ExQ1.RES.1.2 [PD-012] that there was no estimate of the type and quantity of all expected waste produced during the construction phase and that there was no description of likely significant effects (LSE).
- 17.5.19. The Applicant responded [REP3-102] that the Proposed Development was not sufficiently designed at this stage to estimate the types and quantities of all the expected wastes. However, the likely types and quantities of demolition and construction wastes would be set out in the Waste Forecast sheet of the SWMP prior to construction.
- 17.5.20. The ExA sought further clarification and issued a request for further information under Rule 17 of the Examination Procedure Rules¹⁷ [PD-018]. The Applicant was asked (question R17b.2) to either provide a description of LSEs or justify why an assessment of LSEs for waste has not been undertaken to demonstrate compliance with the EIA Regulations¹⁸.
- 17.5.21. The Applicant's response [REP5-070] stated that a description of the LSEs resulting from the creation, disposal and recovery of waste is included across the ES and any potential residual impacts would be mitigated by waste management plans so as to result in no LSEs. For this reason, the Applicant's position was that an individual assessment of LSEs for waste was not required. To support its position, the Applicant provided a Waste Management Signposting Document [REP6-017] setting out how the potential effects of construction waste (including production, storage and transport) have been considered in the assessment in other chapters of the ES.
- 17.5.22. The Applicant was also asked in R17b.2 [PD-018] to confirm whether there were any other waste arisings that should have been detailed by type and quantity in the ES in order to meet the EIA Regulations. In response [REP5-070] the Applicant stated that an initial list of waste types that would be generated from these activities had been included in the SWMP template of the CRWMP [REP4-009]. However, an estimate of quantities of each waste type was not provided.
- 17.5.23. A requirement for approval of a SWMP was included in the Applicant's dDCO (Requirement (R) 30) at deadline (D) 5 [REP5-005]. The ExA asked several detailed questions about how R30 would work in practice at ExQ2.RES.2.1 [PD-021]. The Applicant's response [REP7-090] and updates to the dDCO [REP7-005] and CRWMP [REP7-028] provided the ExA with assurance that although no forecasted waste arisings for the construction period have been provided, R30 and the CRWMP would give the relevant waste authority appropriate control over how construction waste would be managed to prevent any LSEs.

¹⁷ Infrastructure Planning (Examination Procedure) Rules 2010

¹⁸ Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

Transportation of Waste

- 17.5.24. The Applicant's Waste Management Signposting Document [REP6-017] stated that the effects associated with the transportation of waste had been considered within other topic chapters in the ES. The ExA asked the Applicant at ExQ2.RES.2.2 [PD-021] how the effects of transportation of waste could have been considered in the assessments under other topic areas when the quantity of different waste types, and therefore amount of associated transportation of waste, was not known.
- 17.5.25. The Applicant explained in response [REP7-090] that the ES assumed a conservative estimate that 60% of construction vehicles used for moving materials onto the site would be used for the movement of waste from the site. The Applicant also stated that the waste minimisation measures set out in the CRWMP would result in the amount of waste being generated being significantly reduced.
- 17.5.26. The ExA finds that the Applicant's position in respect of the transportation of waste has been adequately explained for the stage of design development reached to date.

Operational Phase

Project Change

- 17.5.27. The Applicant explained in the Change Application Report (CAR) [AS-139] that the existing biomass boiler at the CARE facility had been switched off during the Covid-19 pandemic as the volume of organic waste being generated was too low to operate effectively without a continual supplement of diesel fuel to achieve sufficiently high temperatures. The boiler has remained switched off as the volume of organic waste produced at the airport remains low post-pandemic.
- 17.5.28. Project Change 2 therefore removes the biomass boilers from the Proposed Development as the biomass operation would not be effective without supplementary diesel fuel. Instead, waste material would be taken off-airport rather than being processed on site.
- 17.5.29. Communities Against Gatwick Noise and Emissions (CAGNE) raised concern at D6 [REP6-120] that the transport impacts of sending waste offsite arising from the Project Change had not been properly assessed by the Applicant. The Applicant's case, as set out in the CAR (Table 4, [AS-139]) is that the additional traffic impacts were expected to be very small, in the region of fewer than six vehicle trips a day. It concluded that this level of trip generation was not expected to be perceptible on the highway network or have a material impact on the outcomes of the assessment presented in the ES.
- 17.5.30. The ExA finds that the expected quantum of additional traffic movements would not be so significant as to materially change the findings in relation to ES Chapter 12: Traffic and Transport [APP-037].

Operational Waste Forecasts

- 17.5.31. The JWSLAs raised concern in their Local Impact Report (LIR) [REP1-068] that there was no baseline provided about the existing waste operations, no projections or forecasts for waste amounts expected (including waste streams), and therefore no justification for the proposed CARE facility.

- 17.5.32. At D3 the Applicant submitted an Operational Waste Management Strategy (OWMS) [REP3-070] presenting the baseline waste arisings, a description of how these wastes are currently managed and predicted waste forecasts based on the predicted passenger numbers for the Proposed Development.
- 17.5.33. The Applicant also included a new requirement (R25) in its dDCO at D3 [REP3-006] requiring an Operational Waste Management Plan (OWMP) to be submitted to WSCC, the relevant planning authority, for approval. The timescale for approval of the OWMP was originally within six months of commencement of dual runway operations [REP3-006]. The ExA recommended [EV20-001] the timescale for R25 be changed to pre-commencement of works to construct Work No. 9 to prevent a situation where the existing CARE facility had been removed and the replacement facility had been constructed but could not be brought into operation if the OWMP were not approved.
- 17.5.34. The Applicant accepted the recommended change, and this is reflected in the Recommended DCO (rDCO). The ExA considers that WSCC would have sufficient control over how operational waste is managed through R25 of the rDCO.

Design of the CARE Facility

- 17.5.35. The JWSLAs raised concern in their LIR [REP1-068] that the information provided on the design of the CARE facility was high-level and limited. The JWSLAs stated that they were concerned about how the building would be designed to limit the impacts associated with operating waste facilities, including, but not limited to, noise, dust, odour and vermin.
- 17.5.36. The OWMS [REP3-070] explains that the environmental permit for the CARE facility would include prescribed processes for reducing the risk of pests, vermin and dust. The Applicant's process for monitoring, recording and reporting on odour issues is covered in the Odour Monitoring and Management Plan, final version [REP9-108]. Noise impacts of the Proposed Development are discussed within Chapter 6 of this Report.
- 17.5.37. In its final Principal Areas of Disagreement Summary Statement (PADSS) [REP9-172] WSCC maintains that Work No. 9 should be included as 'listed works' in Schedule 12, as also set out in the Joint Local Authorities' (JLAs) D8 submission [REP8-126]. However, the ExA considers that the scale and location of the proposed CARE facility within the airport site, would not justify the inclusion of Work No. 9 within Schedule 12. Furthermore, as mentioned above, WSCC would have control over how operational waste is managed through R25 of the rDCO.

ExA's CONCLUSION ON RESOURCE AND WASTE MANAGEMENT

- 17.5.38. The ExA finds that the Applicant's assessment of resource and waste management has been appropriately undertaken in line with the requirements of paragraphs 5.141 of the ANPS and 5.42 of the NNNPS. Mitigation, provided through R25 and R30 of the rDCO would minimise the volume of waste arisings and the volume of waste sent to landfill thereby reducing the risk of adverse impacts associated with resource and waste management as required through paragraphs 5.136 and 5.143 to 5.145 of the ANPS and 5.43 to 5.44 of the NNNPS. Consequently, the resource and waste management effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order.

17.6. CUMULATIVE EFFECTS

INTRODUCTION

17.6.1. This Section considers the potential effects of the Proposed Development in relation to cumulative effects and inter-relationships.

THE APPLICATION

17.6.2. The Applicant's assessment of the effects arising from the Proposed Development that may occur at the same time as effects from other developments on environmental receptors (cumulative effects), as well as the combined effects of the environmental topics covered in the ES (inter-relationships) is set out in ES Chapter 20 [APP-045].

17.6.3. The assessment of cumulative effects for the Proposed Development was undertaken using a four-stage process, which was summarised as follows:

- Stage 1 - identification of a 'longlist' of other proposed developments based on the area around the Proposed Development site that may be affected for each environmental topic considered in the ES;
- Stage 2 - preparation of a 'shortlist' of other proposed developments, which was defined by reviewing the longlist against inclusion/ exclusion criteria;
- Stage 3 - collection of environmental information (if available) relating to other proposed developments in the shortlist; and
- Stage 4 - determining if significant cumulative effects were likely to occur between the Proposed Development and the other developments in the shortlist.

17.6.4. In addition to the process above, a separate qualitative (descriptive) assessment was undertaken to determine the potential cumulative effects between the Proposed Development and the potential addition of a new runway at Heathrow (Heathrow R3). The assessment was undertaken on the assumption that Heathrow R3 would become operational by the mid-2030s. However, the Applicant stated that there was insufficient available information on the Heathrow R3 project to allow a full cumulative assessment to be undertaken.

17.6.5. The Applicant identified in the assessment the following significant cumulative effects:

- Temporary and permanent adverse effects on the landscape and townscape character of High Woodland Fringes, Low Weald, Horsham Upper Mole Farmland and Mole Valley Open Weald during construction and operation of the Proposed Development. However, the Applicant concluded that the contribution of the Proposed Development to these significant effects, when compared to the other proposed developments, is medium to negligible.
- Temporary and permanent adverse effects on people with mid to long distance views from elevated locations during construction and operation of the Proposed Development.

17.6.6. The assessment of inter-related effects for the Proposed Development was undertaken following completion of the assessments for each of the environmental topics considered in the ES. These were then reviewed to identify receptors likely to be affected by one or more of the environmental topics. An assessment was then undertaken to determine how individual effects for each environmental topic may combine to create significant inter-related effects on identified receptors.

- 17.6.7. The Applicant concluded that additional adverse inter-related effects may arise at some locations from noise, traffic and visual effects during construction and operation of the Proposed Development. However, considering the mitigation measures proposed within each of the environmental topic chapters of the ES, no significant inter-related effects were likely to occur during construction and operation of the Proposed Development.

ISSUES CONSIDERED DURING THE EXAMINATION

- 17.6.8. In the JWSLAs LIR [REP1-068] they set out that their main concerns related to:

- the consideration of the combined effects of the potential third runway at Heathrow Airport; and
- whether the assessment correctly considered the temporal construction effects relating to the Gatwick Green Strategic Employment Site and the development West of Ifield.

Third Runway at Heathrow

- 17.6.9. We asked in question ExQ1.CE.1.1 [PD-012] whether ES Chapter 20 had taken full account of the cumulative effects of Heathrow R3. The Applicant [REP3-088] stated that it did not consider that the status of the Heathrow R3 proposal required it to do a fully detailed cumulative impact assessment relating to the Proposed Development, as envisaged by the Planning Inspectorate Advice Note 17.
- 17.6.10. Advice Note 17 is now the advice page on “*Nationally Significant Infrastructure Projects: Advice on Cumulative Effects Assessment*”. It recommends a four-stage assessment process, the third stage of which is information gathering. The Applicant set out that there was not enough detailed information about Heathrow R3 in order for them to have undertaken a cumulative assessment as envisaged by the advice page. The Applicant however had considered a qualitative sensitivity test of the likely cumulative effects of Heathrow R3 in Table 20.7.2 in ES Chapter 20 [APP-045].
- 17.6.11. The Applicant concluded in paragraph 20.7.6 that “*in circumstances that Heathrow R3 were to become operational by the mid-2030s, air traffic levels at Gatwick would likely decline in the period immediately following the opening of Heathrow R3, by comparison to the scenario where Heathrow R3 was not operational. In the longer-term, even with Heathrow R3, it is forecast that Gatwick’s traffic would subsequently return to the levels forecast without Heathrow R3*”.
- 17.6.12. The Legal Partnership Authorities (LePAs) [REP4-061] responded to the Applicant’s [REP3-088] reply expressing the view that not doing a full assessment of the cumulative impact of the Proposed Development, that the Applicant may be “*circumventing or undermining the ANPS*”.
- 17.6.13. Heathrow Airport [REP3-132] also responded to ExQ1.CE.1.1 concluding that a robust assessment of the cumulative effects of the Proposed Development with the Heathrow R3 scheme should inform the ExA’s consideration of consistency of national aviation policy set out in the ANPS.
- 17.6.14. The Applicant [REP4-025] responded that they had, as far as possible, undertaken a qualitative assessment of the impact of Heathrow R3. It stated that it did not anticipate that any likely significant cumulative effects would occur. The Applicant based this conclusion on the following:

- the distance between the airports means that any site-based impacts would not interact;
- in any airspace configuration it is unlikely that the LOAELs for air noise would overlap; and
- Heathrow is committed to a “no more traffic scenario” (paragraph 5.38, ANPS).

17.6.15. At the end of the Examination in the signed SoCG with WSCC [REP9-084] no issue relating to cumulative effects was recorded. The signed SoCG with Horsham District Council (HDC) [REP9-070] recorded that they still had concerns about the cumulative impact of Heathrow R3 that had not been addressed, although they did not mention any further issues than already identified in the JWSLAs LIR [REP1-068].

ExA’s Conclusion on Cumulative Effects of Third Runway at Heathrow

17.6.16. The ExA has taken into account all of the representations made about the consideration of the cumulative impacts of the Proposed Development when considered alongside the Heathrow R3 project. In terms of the effect on national aviation policy and the position of Heathrow Airport, this matter is considered in section 4.2 of this Report. With respect to the consideration of the cumulative environmental effects relating to Heathrow R3, we are satisfied that the Applicant’s position as summarised above is reasonable and in practical terms as much as it could have done in its submission.

Local Development Sites

17.6.17. We asked in ExQ1.CE.1.2 [PD-012] about the concerns expressed about the interaction with the Proposed Development and the listed economic development sites. The Applicant [REP3-088] responded clarifying the sites included in the ES Chapter 20 assessment. The LePAs [REP4-061] set out their concerns around full engagement and the cumulative transport effects taken into account by the Applicant. The Applicant [REP5-072] explained the approach and also set out where appropriate how sites like those mentioned in the second bullet point of paragraph 1.2.8 Above had been taken into account in both the TA [REP3-058] and also in section 12.11 of ES Chapter 12 [REP3-016].

17.6.18. At the end of the Examination the signed SoCG with WSCC recorded no items not agreed but the signed SoCG with HDC recorded that despite the additional information from the Applicant the Council’s position remains unchanged.

ExA’s Conclusion on Cumulative Effects Relating to Development Sites

17.6.19. The ExA considers that the Applicant has undertaken a proper assessment, as set out above, of the cumulative impact of the Proposed Development when considering other developments. Notwithstanding the outstanding concern from HDC, we consider that the Applicant has explained how cumulative traffic and environmental effects have been properly addressed in its assessment.

ExA’s CONCLUSION ON CUMULATIVE EFFECTS

17.6.20. The assessment of cumulative and inter-related effects is based on the mitigation measures identified within each of the environmental topic chapters of the ES. The ExA concludes that the Applicant’s assessment accords with paragraphs 4.14 and 4.15 of the ANPS, and paragraphs 4.16 and 4.17 of the 2015 NNNPS. Paragraph 17.6.5 above identifies some temporary and permanent effects which are taken into account in Chapter 12 of this Report. Given that no further significant residual cumulative effects are identified in this assessment the ExA recommends that

neutral weight should be given to cumulative effects in the overall planning balance of the Proposed Development.

18. GOOD DESIGN

18.1. INTRODUCTION

18.1.1. This Chapter considers the effect of the Proposed Development in relation to good design.

18.2. THE APPLICATION

18.2.1. Due to the fairly wide-ranging nature of good design, the Applicant’s assessment of matters relating to the topic can be considered to be included in various chapters of the Environmental Statement (ES). Design specifically is considered within the Design and Access Statement (DAS) [APP-253 to APP-257].

18.2.2. The DAS is split into five volumes, with volume one [APP-253] introducing the DAS, providing the site context and project requirements and detail over the evolution of the scheme, and subsequent volumes [APP-254 to APP-257] dealing with specific ‘zones’ of the airport, providing site wide design guidelines (volume 5, [APP-257]).

Figure 18.133: Airport Zones



18.2.3. DAS volume one [APP-253] describes the sustainability objectives identified by the Applicant for the Proposed Development. In summary, these are:

- mitigation of:
 - air quality impact;
 - local ecological impacts and biodiversity net gain proposals to be the ‘sector leader’ for net gain; and
 - impact on climate.
- minimisation of potential negative effects on surrounding communities;
- to ensure the project generates a local and regional thriving economy;
- to ensure the project does not negatively impact the historic environment and surrounding landscape;

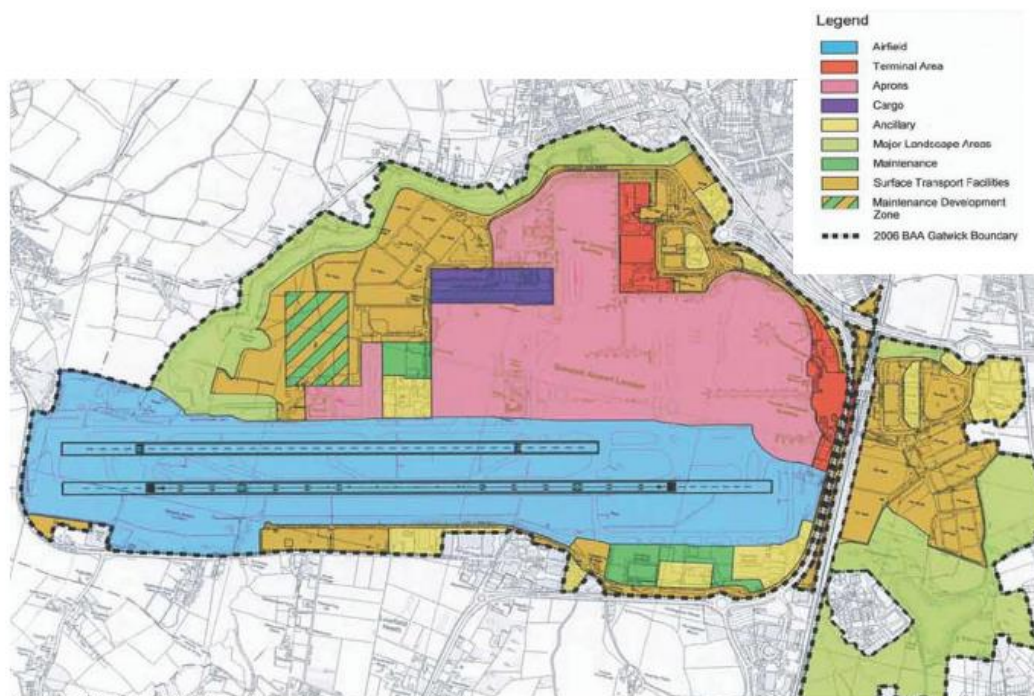
- to encourage resource and material efficiency and sustainable waste management; and
- to develop surface access actions to assist with sustainable transportation targets.

18.2.4. The above details are included within the Planning Statement Appendix D, Sustainability Statement [APP-249]. Other relevant documents to good design include the ES Appendix 5.3.2 Code of Construction Practice (CoCP) [APP-082], and the Carbon Action Plan [APP-091].

18.2.5. Volume one of the DAS [APP-253] describes consultation which took place in Autumn 2021 and Summer 2022 in the progression of the scheme that was to form the Proposed Development, and summarises the design evolution of the various elements of the scheme, including airfield design, terminals, piers, stands, hangars, car parking, offices, hotels, and highways, as well as replacement open space and proposals for Pentagon Field.

18.2.6. Volumes two [APP-254] to four [APP-255 to APP-256] consider the eight zones of the airport (shown above), providing descriptions and photographs of each zone, and constraints and proposed elements of the Proposed Development within each zone. Volume five contains a design guide, following guidance in the National Planning Policy Framework (NPPF), the National Design Guide, Crawley Borough Council's (CBC) Local Plan and Gatwick Airport Supplementary Planning Document (SPD).

Figure 18.234: Airport Areas (from the CBC Gatwick Airport SPD)



18.2.7. Volume five [APP-257] provides general design guidance for the following areas:

- landscape, townscape and visual amenity;
- historic environment;
- biodiversity;
- greenhouses gases and climate change;

- noise;
- resources and waste;
- water environment;
- lighting;
- surface access, roads and bridges;
- building design (terminal extensions, piers, hotels, offices, car parks, operational buildings, fire station, and hangars);
- construction compounds; and
- phasing and delivery (from 2024 to 2038).

18.2.8. Appendix one to volume five provides design principles for the areas above. An example of one such design principle is shown below. Land use and construction phasing plans are separate appendices to volume five.

“DBF1

The extensions to the terminal buildings shall incorporate the following design features:

- *A contemporary aesthetic ensuring that the extensions and the existing buildings complement each other, reflect modern design techniques and use high quality design materials.*
- *The façade will be optimised where possible to provide natural light and views to the airfield.*
- *Materials will include metal cladding and glazed curtain walling.”*

(DBF1, Page 65 [APP-257])

18.3. ISSUES CONSIDERED DURING THE EXAMINATION

18.3.1. Relevant Representations did not, by and large, mention good design, preferring instead to concentrate on the individual elements of the Proposed Development which may or may not fall under the wider good design umbrella. One exception was West Sussex County Council (WSCC) [RR-4773], which noted that the design principles upon which the detailed design of the Proposed Development would be secured against had no input from stakeholders, were not detailed enough, and contained ambiguous wording. It was also of the view that the DAS was not comprehensive as some development was excluded; that there was a general lack of detail for character zone analysis and design and visual impact of some works; a lack of analysis of site context, opportunities and constraints; and no comprehensive commentary to explain the phasing plans.

18.3.2. At the commencement of the Examination the draft Development Consent Order (dDCO) [AS-004] contained two general requirements (R) to consider design:

- R4 stated that no part of the development could commence (apart from highway works or ‘excepted development’) until details had been submitted to and approved by the relevant planning authority. Excepted development could not be carried out until the planning authority had been consulted on that development. Excepted development was deemed to be development which would fall under Schedule 2, Part 8, Class F of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO); and
- R5 stated that no highway works were to commence until full details had been submitted to and approved by the relevant highway authority.

18.3.3. The Joint West Sussex Local Authorities Local Impact Report (LIR) (the JWSLAs LIR) [REP1-068] contains a section on ‘Design and Sustainability’. It considered that

the level of information currently provided on the proposed plans, together with the current dDCO (AS-004) and the level of detail contained within the control documents (as currently drafted) would not give the Authorities sufficient control over design details and sustainability to ensure a high-quality development is delivered which would be in accordance with adopted national policy guidance and local plan policy. The following matters were raised:

- lack of control and information over visual appearance of development and lighting. A more detailed design control document was requested, with an independent design review panel to inform detailed design for major elements of the project;
- lack of control over landscaping and tree loss; and
- lack of control over building performance in terms of sustainability. The Authorities would wish to see Building Research Establishment Environmental Assessment Methodology (BREEAM) certification incorporated.

18.3.4. The JWSLAs LIR considered that there had been little meaningful engagement on design matters and that much of the DAS was badged as 'indicative', with ambiguous wording and a lack of detail. It considered that design information fails to draw on the character area analysis prepared and that there is no commitment to good design quality or striving for exemplar design.

18.3.5. A range of questions were asked in the Examining Authority's (ExA) first written questions (ExQ1) around good design. Such questions covered the following topics:

- accordance with the Aviation National Policy Statement (ANPS) in terms of good design (ExQ1.GEN1.18);
- further details/ drawings for key built elements of the Proposed Development (ExQ1.GEN.1.19);
- accordance with the National Infrastructure Commission's Design Principles for National Infrastructure (ExQ1. GEN.1.20);
- sustainable design and BREEAM compliance (ExQ1.GEN.1.22); and
- the desirability of the appointment of the following measures to the project:
 - a design champion at board level;
 - a design review panel to provide informed 'critical friend' comments;
 - an approved design code; and
 - an outline of the proposed design process going forward (ExQ1.GEN.1.21).

18.3.6. In summary, the Applicant responded with the following [REP3-091]:

- signposting to relevant sections of the DAS [REP2-032 to REP2-036], the revised Design Principles [REP3-056], and the Outline Landscape and Ecology Management Plan (oLEMP) [REP2-021 to REP2-027];
- the details of the elements are not at a sufficient stage to be able to provide detailed drawings. Where possible, indicative massing, cross sections, floor plans and axonometric drawings are within the DAS. The Design Principles contain matters to be reflected in detailed design, including building finishes, external materials and overall appearance. Detailed design of each component would be controlled through approval and consultation with relevant local authorities via R4 and R5 of the dDCO; and
- the airport's Chief Technical Officer is responsible for overseeing design matters and sits on the airport's Executive Management Board. A design review panel will be considered. The design principles meet the requirements of a design code and moving forward detailed design will take place in accordance with R4 of the dDCO (or R5 and R6 for highway works).

- 18.3.7. Replying to the JWSLAs LIR [REP3-078], the Applicant referred to the review of the Design Principles undertaken in response to ExQ1. It stated that the Principles had been updated to specify relevant work numbers and that new site specific design principles had been drafted. It considered that there was sufficient control over landscaping and planting within the Code of Construction Practice Annex 6 (Outline Arboriculture and Vegetation Method Statement (oAVMS)) [REP9-037 to REP9-042] and within the oLEMP [REP9-047 to REP9-052]. In relation to BREEAM, the Applicant stated that different schemes are available for different types of assets and covering different sustainability issues. It stated that they would consider the use of such schemes to decide whether they would result in sustainability outcomes that may otherwise not be achieved.
- 18.3.8. The Legal Partnership Authorities (LePAs) made a comprehensive response [REP3-135] to ExQ1.GEN.1.21, noting that good design was vital to the Proposed Development given the significance of the airport and the scale and visual impact of some of the development proposed. It acknowledged that the Applicant required some flexibility to address some uncertainties but considered that the necessary controls to ensure good design were not in place due to the level of detail provided by the Applicant. The LePAs repeated concerns over stakeholder engagement and considered that such engagement should be included prior to the submission of details under R4 or 5 of the dDCO.
- 18.3.9. The LePAs considered [REP3-135] that a design champion would be useful but due to the timing of the process that their effectiveness was a major concern. It considered that their position on the board would create doubts about impartiality. The LePAs considered that an independent design review panel should be in place to consider all development elements over 1,000 metres squared (m²) floorspace along with the highway works should be 'excepted development'. It noted that the London Luton Airport Expansion DCO was proposing an independent design review process for its own more detailed proposals and noted design review process in various highway schemes (A57 Link Roads; A14 Cambridge to Huntingdon; and Silvertown Tunnel).
- 18.3.10. They were also of the view that a design code would have been appropriate if it had been substantially developed prior to the submission of the DCO and were of the view that the Design Principles should be merged with the design elements of the oLEMP. Furthermore, they considered that the design principles should be updated with relevant local planning policies. Concerns were raised over habitat and tree loss and a list of Proposed Development elements for which the LePAs considered were sensitive sites which should have more detail. Finally, a detailed timeline of what it considered next steps to be was submitted.
- 18.3.11. At D4, the Applicant [REP4-031] stated that they were looking to appoint a Design Advisor to work with the airport and review/ advise on the designs brought forward by the Applicant. It also submitted a note further justifying the excepted development route [REP4-030] and noting that D5 would see a revised dDCO specifically defining works which would require detailed design approval, as opposed to tying the definitions to the GPDO.
- 18.3.12. The D5 dDCO [REP5-005] altered the wording of R4, redefining excepted development as 'listed works'. Development that was not highway or listed works would go through the following process:
- CBC would be consulted in the same manner as they would be under the GPDO; CBC must make their comments within 8 weeks; and

- All works must be carried out in accordance with the Design Principles.

18.3.13. Listed works were defined in Schedule 12 (non-highway works for which detailed design approval is required), and were the following works [REP5-005]:

Table 18.1: ‘Listed Works’ from D5 dDCO

Work No	Work Description
22 (a) – (c)	North Terminal extension
23 (a)	South Terminal extension
26	Hotel north of multi storey car park 3
27	Hotel on the car rental site
28 (a)	Hotel on the Car Park H site
40 (a)	Pedestrian footbridge over the River Mole

18.3.14. A D5 version of the Design Principles [REP5-031] included an Annex outlining the proposed Design Advisor role, outlining that they would have a remit to undertake an independent review of the following elements of the scheme:

Table 18.2: Works Within the Remit of the Design Advisor

Work No	Work Description
26	Hotel north of multi storey car park 3
27	Hotel on the car rental site
28 (a)	Hotel on the Car Park H site
35 (a) – (v)	Works associated with South Terminal junction improvements
36 (a) – (g)	Works associated with North Terminal junction improvements
37 (a) – (l)	Works associated with the Longbridge Roundabout Junction

18.3.15. Issue Specific Hearing 8 (ISH8) specifically considered good design and we asked questions around the detail and breadth of the DAS, its interlinkages with other documents, such as the oLEMP, external and internal design review; and the control of design within the dDCO.

18.3.16. The Applicant defended [REP6-080] the level of detail within the DAS in relation to the local context of the Proposed Development and for various elements of the Proposed Development and noted that detailed design would be picked up by adherence to the Design Principles. Following comments of the LePAs concerning the level of design control over non-listed works, the Applicant considered that:

“Control and approval are two different concepts. It is absolutely clear that the development is subject to design control and that it will be designed in a holistic way. There are no exceptions to the Design Principles [REP5-031]; they apply to every aspect of development under Articles 4 to 6 of the draft DCO (Doc Ref. 2.1). Additional controls on the physical dimensions of the authorised development are provided within the Parameter Plans [REP5-018] and Works Plans [REP5-016] which are secured by Article 6 of the draft DCO (Doc Ref. 2.1)”

- 18.3.17. It did not see the virtue in combining design elements of differing plans into one document as they were created for differing purposes. The Applicant also confirmed that they had approached a prospective Design Advisor (Paul Finch OBE) and that the works proposed to be under his remit were those which were readily visible from public areas and hotels. They stated that they would consider further whether Car Parks X and Y and the proposed hangar should be included.
- 18.3.18. The LePAs noted [REP6-107] that there was a clear dividing line between the Applicant and the local authorities on the approach to detailed design. The LePAs remained unpersuaded over the approach taken to listed works and the lack of control for development elements which would not fall within the list. It also raised specific concerns over design principles such as DBF11 (multi storey car park) and DBF40-41 (hangar) and the parameters for Car Park X. They were of the view that using permitted development rights to effectively apply to works within the Proposed Development (in terms of their design approval) was an error, as such works would not be permitted development due to the size of the Proposed Development (under the Environmental Impact Assessment (EIA) regulations).
- 18.3.19. The LePAs requested a steer from the ExA on whether the Applicant's or the LePAs' general approach was sound. With reference to merging together design documents, they considered that design should be integrated and holistic and advocating consolidating as much information as possible into one overarching document. The LePAs welcomed the Design Advisor role but raised concerns over the limited role of the Advisor.
- 18.3.20. Finally, the LePAs suggested [REP6-111] a list of works which should fall within the category of listed works within Schedule 12 of the dDCO. These were: Northern Runway (in part); Runways and Taxiways; Pier 7; Oscar Area; Central Area Recycling Enclosure; Motor Transport Facilities; Grounds Maintenance Facilities; Airfield Surface Transport Facilities; Fire Training Ground; Satellite Airport Fire Service Facility; Hangar; Hangar 7 support structures; Western Noise Mitigation Bund; Pumping Station 2a; Re-align Larkins Road; North Terminal Works; South Terminal Works; North Terminal Forecourt; South Terminal Forecourt; Hotel north of Car Park 3, Hotel on car park rental site, Hotel, car park and office; Conversion of Destinations Place to Hotel; Car Park Y; Car Park X; Decked Car Park; Purple Parking; Car Park B; Museum Field; River Mole Works; Land North East of Longbridge Roundabout; Pentagon Field; Habitat enhancement, weir and fish pass; and Water Treatment Works. In addition, they wished to see construction compounds added to the Schedule, and further information on Work 5, 8 and 13, Charlie Box, Removal of airside supporting facilities and Rendezvous Point North respectively.
- 18.3.21. With reference to the works to fall within the remit of the Design Advisor the LePAs wished to see the additional works below included [REP6-111]:

Table 18.3: LePAs Suggested Works for the Design Advisor

Work No	Work Description
9	Central Area Recycling Facility
16	New Hangar
22	North Terminal works
23	South Terminal works

24	Upgrade to North Terminal forecourt
25	Upgrade to South Terminal forecourt
28	All works at car park H – Hotel, office, car park
30	Car Park Y
31	Car Park X
35	All works associated with South Terminal junction improvements
36	All works associated with North Terminal junction improvements
37	All works associated with the Longbridge Roundabout Junction

- 18.3.22. Further questions on good design were asked at ExQ2 [PD-021], with questions about accuracy, certainty and precision, decked parking design, net zero emissions, and new National Infrastructure Commission guidance.
- 18.3.23. Based on ISH8 and ExQ2, D7 saw the update of the DAS to its final version [AS-154, REP7-059, AS-155, REP7-061, AS-156] and a further update to the Design Principles [REP7-063] which aimed to assuage the concerns of the LePAs voiced at D6. The extent of works to fall under the remit of the Design Advisor was also updated to include all works at Car Park H (Work no 28), Car Parks Y and X (Works no 30 (b) and 31 (e)), and the pedestrian footbridge over the River Mole (Work no 40(a)).
- 18.3.24. The Applicant also submitted a substantial note on design matters at D7 [REP7-096] in response to the above comments of the LePAs, including the list of development elements which the LePAs wished to see included within listed works and within the remit of the Design Advisor. Additional drawings called Informative Sub-Work Plans [REP7-021] were submitted, which broke down the airfield works into smaller sub-sections, in response to a LePAs request. R4 and R10 (surface and foul water drainage) in the dDCO [REP7-005] were also amended to state that when elements of the Proposed Development were submitted which fell within the listed works that a ‘compliance statement’ would be included detailing compliance with the design principles.
- 18.3.25. At D8 the Design Principles document [REP8-090] was updated by the Applicant to include the potential wastewater treatment works and to provide further definition to Museum Field works. The Joint Local Authorities welcomed [REP8-126] the Informative Sub-Works Plans [REP7-021] and additions to the Design Advisor role but raised concerns that the potential wastewater treatment works were not included in the DAS. They reiterated concerns over the control process for non-listed works and re-stated the need for other works to come under the remit of the Design Advisor and within the definition of listed works, although several of the works in their previous list [REP6-007] were no longer requested to be included.
- 18.3.26. On 14 August the ExA published [PD-028] its recommended amendments to the Applicant’s dDCO from D8 [REP8-005]. This included suggested changes to R4, to include further details to be submitted for listed works (including details of layout, siting, scale and appearance; schedule of materials; lighting; and the design approach and process for works falling within the Design Advisor role). The document [PD-028] also included suggestions to add additional works to the listed works, namely:

- a new hangar (Work No. 16);
- multi storey car park (Work No. 22(g));
- office and multi storey car park on the Car Park H site (Work No. 28 (b-c));
- conversion of Destinations Place office into a hotel (Work No. 29);
- Car Park Y (Work No. 30); and
- Car Park X (Work No. 31).

18.3.27. The Applicant's D9 dDCO [REP9-004] included the above additions.

18.3.28. In their closing statement, the LePAs [REP9-151] stated that there remained four key concerns on design matters. These were:

- a lack of detail on the visual impact of large parts of the Proposed Development;
- the lack of effective controls to enable them to be confident that these could be overcome post-consent; and
- specific concern over various works, notably:
 - construction compounds
 - Pentagon Field
 - Car Park X
 - Car Park Y
 - North Terminal long stay car park (NTLSCP)
 - Purple parking
 - A23 corridor
- Lack of control over landscaping, extent of tree loss and concerns over suitable replacement provisions.

18.4. EXA'S CONCLUSION ON GOOD DESIGN

Design Detail

18.4.1. Design details are contained in various documents. At the close of the Examination, the primary design documents are as follows:

- the DAS [AS-154, REP7-059, AS-155, REP7-061, AS-156]; and
- Design Principles (Appendix 1 to the DAS) [REP9-062].

18.4.2. These documents are supplemented by various plans and documents, including:

- oLEMP [REP9-047 to REP9-052];
- CoCP [REP8-024] and relevant annexes;
- Works Plans [REP7-018];
- Parameter Plans [REP7-020]; and
- Informative Sub Works Plans [REP7-021].

18.4.3. The DAS contains details of the sustainability objectives identified by the Applicant for the Proposed Development and the process of consultation on the Proposed Development, including design evolution of the different elements of the Proposed Development, with volumes two to four of the DAS providing more detailed descriptions and design details for the identified zones of the airport. Volume five provides a design guide. Drawings included in the DAS for separate elements of the Proposed Development differ for each proposed work and include indicative massing, cross sections, floor plans and axonometric drawings on occasion. The DAS was updated during the Examination to respond to various comments and changes to the Proposed Development.

- 18.4.4. The Design Principles is a more detailed document, effectively providing a design code (along with other documents, such as the works and parameter plans) for the Proposed Development. There are four types of design principles within the document, namely:
- project-wide;
 - detailed built form;
 - detailed drainage; and
 - detailed landscape.
- 18.4.5. When considering the range of documents submitted, and the revisions to the documents made during the Examination as detailed above, the ExA is content that the design detail accompanying the application is sufficient. In line with the ANPS, the Applicant has demonstrated how the design process was conducted and how the proposed design evolved (more information on this can be found in Alternatives, within Chapter 17 of this Report).
- 18.4.6. While the design of various elements of the Proposed Development could be more detailed, the ExA is mindful that it is reasonable for the Applicant to maintain some design flexibility for the Proposed Development bearing in mind the rapidly changing environment of aviation and the flux of technology, particularly given the fairly long scale nature of the Proposed Development.
- 18.4.7. The ExA notes the views of the LePAs considering joining the relevant design sections of the above documents (particularly the DAS, Design Principles, oLEMP and CoCP) to form one coherent design document. However, we consider that while this may be beneficial in one respect, on the other hand removing integral design elements from the oLEMP and CoCP may not be so advantageous. It is reasonably clear to read across the various documents and no harm arises from design advice falling within separate documents in our view.

Design Controls

Overview

- 18.4.8. Control over the design of the Proposed Development is provided within the Applicant's final dDCO [REP10-004]. Relevant documents to be certified under Schedule 14 of the dDCO include:
- Design Principles;
 - CoCP (R7 also ensures that the Proposed Development would be carried out in accordance with the CoCP);
 - consolidated ES;
 - Land Plans;
 - oAVMS;
 - oLEMP (R8 also concerns the LEMP);
 - Parameter Plans (Schedule 13 also provides maximum parameter heights);
 - Surface access drainage strategy, general arrangements, engineering sections and structure section drawings; and
 - Works Plans.
- 18.4.9. R5 of the dDCO provides for detailed design of the local highway works of the Proposed Development, with R6 doing the same for national highway works. Both requirements require detailed designs to be submitted to and approved by the relevant highway authority, and that such designs will be in accordance with the design principles. These requirements provide sufficient comfort to the ExA that the

highway elements of the Proposed Development will be subject to the level of control required and that good design for these elements of the Proposed Development will be secured. In accordance with the ANPS, this should ensure that both functionality and aesthetics will be considered for the proposed highway works. In a similar vein, R10 and R11 provide comfort that surface and foul water drainage details will be carried out in accordance with approved details and subject to the Design Principles.

- 18.4.10. In essence, R4 states that all parts of the Proposed Development would not commence until CBC has been consulted on their design. Such consultation will be accompanied by an explanatory note, drawings, and a statement showing compliance with the Design Principles. Specific listed works would need to be submitted to and approved by the relevant planning authority and require additional details to be submitted. The final listed works are as follows [REP10-004]:

Table 18.4: Listed Works Within Schedule 12 of the Final dDCO

Work No	Work Description
16	New aircraft hangar
22 (a to c), (g)	Extending the North Terminal International Departure Lounge and constructing a multi-storey car park
23 (a)	Extending the South Terminal International Departure Lounge
26	Hotel north of multi-storey car park 3
27	Hotel on the car rental site
28 (a to c)	Hotel, office and multi-storey car park on the Car Park H site
29	Converting the existing Destinations Place office into a hotel
30	Car Park Y
31	Car Park X
40 (a)	Pedestrian footbridge over the River Mole

- 18.4.11. In addition to the above, certain works would fall within the remit of a Design Advisor. The Design Advisor, as described within Annex A to the Design Principles would be a “*suitably qualified and experienced independent Design Advisor*”. The Design Advisor would review designs brought forward, hold a design review meeting with the relevant planning/ highway authorities and other statutory consultees and prepare a written report including a review of the design presented, its appropriateness, the views of the meeting, and recommendations for improvement before the design finalisation. Details of the review and response to recommendations would be included in the details provided to the local authority under R4, R5 and R6. Works in the remit of the Design Advisor (final list [REP9-062]) would be:

Table 18.5: Works Within the Remit of the Design Advisor

Work No	Work Description
26	Hotel north of multi-storey car park 3

27	Hotel on the car rental site
28	Car Park H site
30 (b)	Car Park Y
31 (e)	Car Park X
35 (a to v)	Works associated with the South Terminal Junction Improvements
36 (a to q)	Works associated with the North Terminal Junction Improvements
37 (a to l)	Works associated with the Longbridge Roundabout Junction Improvements
40 (a)	Pedestrian footbridge over the River Mole

- 18.4.12. The list of works in Schedule 12 in the dDCO accord with that proposed by the ExA in [PD-028] and as such we largely agree with this list (with one omission, see below). The list encompasses various significant proposals which would be of a fairly large scale and be visible to various receptors. The height of the new aircraft hangar would make it visible to various viewpoints to the north of the airport, while the departure lounge extensions and the various hotels would be highly visible to members of the public travelling to and from the airport and to airport staff. Car parks X and Y will be visible beyond the site boundaries and the footbridge over the River Mole offers an opportunity for high quality design to link two areas of public open space.
- 18.4.13. We have recommended one additional site in the rDCO – that of the NTLSCP (Work No. 32). The LePAs considered that this should be included given its positioning close to the airport site boundary and possible interactions with the Grade II* listed Charlwood Park Farmhouse. In Chapter 12, Landscape and Townscape and Chapter 13, the Historic Environment we have considered that this car park could have an adverse effect on the setting of the listed building and on the surrounding landscape. The Applicant was of the view that lighting would be adequately controlled via the Design Principles [REP7-096]; however, the ExA notes the proximity of the site to the Order Limits which we consider warrants extra control. Its inclusion within Schedule 12 would help to ensure that any adverse effect was minimised through good design.
- 18.4.14. While the ExA considers that a Design Review Panel for wider elements of the Proposed Development would have been of benefit, the introduction of the Design Advisor to the Examination as Annex A to the Design Principles is welcomed by the ExA. The potential advisor, Paul Finch OBE (CV attached to the Annex), has an excellent CV with various relevant experience who could have a considerable positive effect on the developments contained within the Annex.

Other Works

- 18.4.15. The LePAs raised concerns over several other elements of work, as detailed above. These are considered below.

Construction Compounds

- 18.4.16. These are considered primarily in Chapter 12, Landscape and Townscape. The ExA considers that the design of the compounds is adequately covered by the CoCP, the Design Principles and dDCO R7.

Pentagon Field

- 18.4.17. This is considered primarily in Chapter 12, Landscape and Townscape. The ExA considers that the controls afforded by the oLEMP, the Soil Management Strategy [APP-086] and the Design Principles document would be acceptable.

Car Park X

- 18.4.18. This is considered primarily in Chapter 12, Landscape and Townscape and Chapter 13, the Historic Environment. We have concluded that the Car Park has the potential to cause harm to the landscape and to the setting of a nearby listed building. However, such harm would be minimised and mitigated as far as possible by the inclusion of the Car Park as both a listed work and as being within the remit of the Design Advisor.

Car Park Y

- 18.4.19. This is considered primarily in Chapter 12, Landscape and Townscape and Chapter 13, the Historic Environment. We have concluded that the Car Park has the potential to cause harm to the landscape and to the setting of a nearby listed building. However, such harm would be minimised and mitigated as far as possible by the inclusion of the Car Park as both a listed work and as being within the remit of the Design Advisor.

Purple Parking

- 18.4.20. This is considered primarily in Chapter 12, Landscape and Townscape. The ExA considers that the controls afforded by the Design Principles, the oLEMP, and R4 of the dDCO would be acceptable in design terms.

A23 Corridor, and Lack of Control Over Landscaping

- 18.4.21. This is considered primarily in Chapter 12, Landscape and Townscape and Chapter 14, Ecology. The ExA considers that there would be a net loss of woodland arising from the Proposed Development but a revised R39 as included in the rDCO would form an appropriate response to this. In design terms, the controls offered by the Design Principles and R5 and R6 would suffice. Furthermore, the Longbridge Junction and the North and South Terminal improvements elements which fall within this area would come under the remit of the Design Advisor.

Other Works

- 18.4.22. As detailed above, the LePAs also suggested a list of other works [REP6-111] which they considered should be included within Schedule 12 of the dDCO or in the remit of the Design Advisor. Some of these were subsequently moved into the listed works or the remit of the Design Advisor (Hangar, North Terminal Work 22 (g), Hotel north of Car Park 3, Hotel on car park rental site, Hotel, car park and office; Conversion of Destinations Place office to Hotel; Car Park Y; Car Park X).
- 18.4.23. Of the other works the ExA is not persuaded that they require additional design control over and above what would be required under R4 of the dDCO. Early in the Examination the subject of controls that are currently available under the GPDO

was considered, and it appeared that the initial list of developments which would fall under R4 as consultation only developments or as listed works was predicated upon whether or not the proposed work would fall within the remit of the GPDO were the Proposed Development not an NSIP (and subject to the EIA Regulations).

- 18.4.24. However, over the course of the Examination matters progressed and R4 became more detailed and precise. The other works suggested by the LePAs are, by and large, relatively small scale works not readily visible or confined to the interior of the airport site. Such works would now be subject to R4, which requires that they take place in accordance with the Design Principles and that a Compliance Statement is submitted with the relevant consultation demonstrating this. Such controls would be more demanding than would be required under the GPDO and would help to ensure that a higher design standard is secured than might otherwise be the case under the Future Baseline case.

Other Design Matters

- 18.4.25. The ANPS states that applying 'good design' to airports projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, and matched by an appearance that demonstrates good aesthetics as far as possible, and that a good design should meet the principal objectives of the scheme by eliminating or substantially mitigating the adverse impacts of the development, for example by improving operational conditions. It should also mitigate any existing adverse impacts wherever possible, for example in relation to safety or the environment. A good design will also be one that sustains the improvements to operational efficiency for as many years as is practicable, taking into account capital cost, economics and environmental impacts. Similar wording can be found in the National Networks National Policy Statement (NNNPS).

- 18.4.26. In consideration of the above, the following other issues considered in this Report also fall under the remit of good design.

Terminal facilities

- 18.4.27. Chapter 4, the Case for the Development, confirms that the Proposed Development would provide adequate terminal facilities, in terms of security, check in, departure lounge space and facilities and baggage systems and the ExA is satisfied that extant security, customs and immigration measures would be maintained or re-provided, as required by the ANPS.

Noise

- 18.4.28. Suggested requirements are contained within the ExA's rDCO to ensure that the air noise effects from the Proposed Development satisfy the provisions of the ANPS and mitigate and minimise adverse impacts on health and quality of life in the context of sustainable development.

Flooding

- 18.4.29. The ANPS states that the SoS will need to be satisfied that projects account for natural hazards such as flooding. Chapter 11 Water Environment and Chapter 9 Climate Change resilience confirm that we are satisfied that with the Proposed Development in terms of fluvial flood risk and all matters with the Environment Agency were agreed.

Surface Access

- 18.4.30. The ExA have recommended a requirement removing permitted development rights relating to provide further car parking and imposing a cap on the total number of parking spaces. This will assist in the Applicant's approach in managing sustainable surface access. A further requirement is proposed in the rDCO tying modal share targets to the use of certain elements of the Proposed Development.

Sustainability

- 18.4.31. Chapter 17 confirms that the ExA is content that the Applicant's assessment of resource and waste management has been appropriately undertaken in line with the requirements of the ANPS and the NNNPS. Volume 1 of the DAS [AS-154] summarises the airport document, 'Second Decade of Change to 2030' and various sustainability objectives within the Proposed Development are noted, including:
- mitigating local air quality;
 - mitigating effects on local ecology and biodiversity net gain proposals;
 - mitigation of climate change impacts;
 - minimisation of potential negative effects on surrounding communities;
 - ensure a thriving local and regional economy;
 - mitigating impacts on heritage assets and the local landscape;
 - encourage resource and material efficiency; and
 - strategically developed surface access actions to assist with sustainable transportation targets.
- 18.4.32. Such measures are assessed in the relevant chapters of this Report.

ExA's OVERALL CONCLUSION ON GOOD DESIGN

- 18.4.33. We have concluded that the design detail accompanying the application is sufficient. The Applicant has demonstrated how the design process was conducted and how the proposed design evolved. While the design of various elements of the Proposed Development could be more detailed, the ExA is mindful that it is reasonable for the Applicant to maintain some design flexibility for the Proposed Development. The various documents that make up the design case for the Proposed Development are reasonably clear to read across the various documents and no harm arises from design advice falling within separate documents.
- 18.4.34. Aside from the NTLSCP, we agree with the list of works in Schedule 12 in the dDCO. While the ExA considers that a Design Review Panel for wider elements of the Proposed Development would have been of benefit, the introduction of the Design Advisor to the Examination as Annex A to the Design Principles is welcomed by the ExA. Design of specific elements of the Proposed Development are adequately covered by the various design based and other documents. The provisions of R4 of the dDCO changed through the Examination and controls over design of the specific elements of the Proposed Development would be higher and more demanding than under the provisions of the GPDO.
- 18.4.35. With our suggested requirements in the rDCO for noise and surface access, as well as Applicant proposed controls for flooding, sustainability and surface access, we also consider that the Proposed Development would meet the provisions of the ANPS and the NNNPS in relation to wider matters of good design.
- 18.4.36. Taking all the above together, and with the suggested alteration to Schedule 12 included in the rDCO, the ExA considers that the Proposed Development satisfies

the provisions of the ANPS and the NNNPS in relation to good design. The ExA considers that the Proposed Development would be as sustainable and as aesthetically sensitive, durable, adaptable and resilient as it can reasonably be, having regard to regulatory and other constraints and including accounting for natural hazards such as flooding. In coming to this view the ExA has taken into account the ultimate purpose of the infrastructure and borne in mind the operational, safety and security standards which the design has to satisfy.

- 18.4.37. Airports are in a unique position, in providing a gateway in and out of the country for visitors, tourists, and businesses. In committing to taking professional independent advice on the design, there is an opportunity for the Proposed Development to deliver a substantially improved urban environment at the airport and its surrounds. The ExA notes that the original Gatwick airport was served by the Beehive terminal. The Grade II* listing states that this building:

“is important not only in the history of British aviation but also in terms of world airport design. It is a rare example of how airport owners and architects collaborated to put passenger comfort as a top consideration when designing a terminal building.”

- 18.4.38. Should the SoS decide to grant consent for the Proposed Development, the ExA urges the Applicant to take forward this approach and apply it to the detailed design of the Proposed Development.

- 18.4.39. In conclusion, we find that the Proposed Development in respect of good design would accord with the ANPS and other relevant legislation and policy requirements. The ExA ascribes a little weight on matters relating to Good Design in favour of the Order being made. Should the NTLSCP not be included in Schedule 12 of the final dDCO (if granted) this weight would reduce to neutral (neither in favour nor against the Proposed Development).

19. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

19.1. INTRODUCTION

19.1.1. This Chapter sets out our analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State (SoS) for Transport, as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

19.1.2. This Chapter is structured as follows:

- Section 19.2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites;
- Section 19.3: Conservation Objectives for sites and features;
- Section 19.4: Findings in relation to Adverse Effects on Integrity; and
- Section 19.5: HRA conclusions.

19.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)¹⁹ and no reasonable scientific doubt remains²⁰.

19.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 2 of this Report.

19.1.5. We have been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISH).

REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES AND CONSULTATION

19.1.6. We produced a Report on the Implications for European Sites (RIES) [PD-026] which compiled, documented, and signposted HRA-relevant information provided in the Development Consent Order (DCO) application and Examination representations up to Deadline (D) 7 (15 July 2024). The RIES was issued to set out our understanding on HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 25 July 2024 and 21 August 2024. Comments were received from the Applicant [REP8-122] and NE [REP9-162]

¹⁹The term 'European sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above.

²⁰ CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij

by D9 (21 August 2024). These comments have been taken into account in the drafting of this Chapter.

- 19.1.7. The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the SoS to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations, should the SoS wish to do so.

PROPOSED DEVELOPMENT DESCRIPTION AND HRA IMPLICATIONS

- 19.1.8. The Proposed Development is described in Chapter 1 of this Report.
- 19.1.9. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 1 of the HRA Report [REP3-045].
- 19.1.10. The Proposed Development is not directly connected with, or necessary to, the management of a European site. Therefore, the SoS for Transport must make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 19.1.11. The Applicant's assessment of effects is presented in the following application document(s):
- Environmental Statement (ES) Appendix 9.9.1 Habitats Regulations Assessment Report Part 1 [APP-134], updated at D3 [REP3-043]; and
 - ES Appendix 9.9.1 Habitats Regulations Assessment Report Part 2 [APP-135], updated at D3 [REP3-045].
- 19.1.12. The HRA is supported by the following ES chapters:
- ES Chapter 9: Ecology and Nature Conservation [APP-034];
 - ES Chapter 12: Traffic and Transport [REP3-016];
 - ES Chapter 13: Air Quality [REP3-018];
 - ES Chapter 20: Cumulative Effects and Inter-relationships [APP-045];
 - ES Appendix 9.3.1: Summary of Stakeholder Scoping Responses – Ecology and Nature Conservation [APP-120]; and
 - ES Appendix 20.4.1: Cumulative Effects Assessment Long and Short List [APP-217].
- 19.1.13. During the Examination, the Applicant submitted a number of change requests as described in Chapter 1 of this Report. No evidence was submitted indicating that the change requests would alter the conclusions of the HRA Report. The HRA report was not updated as a result of any of the change requests. The changes were accepted into the Examination by the ExA as described in Chapter 1 of this Report.
- 19.1.14. The Applicant updated the HRA report at D3 following ExQ1, no further iterations were provided during the Examination. This Chapter refers to the updated HRA Report [REP3-043] unless otherwise specified.
- 19.1.15. The RIES put one further written question to the Applicant and NE relating to confirmation of the level of detail provided on the conservation status of Ockham and Wisley Common and Chobham Common Sites of Special Scientific Interest (SSSI) and Ashdown Forest (Special Protection Area) SPA. The Applicant responded at Deadline 8 [REP8-122] to confirm the ExA's understanding of the

information provided and NE confirmed at Deadline 9 [REP9-162] that they were content with the level of information.

- 19.1.16. Non-UK European sites in European Economic Area (EEA) States were considered in the Applicant's assessment; however, the Applicant did not identify any likely significant effects (LSE) (para 1.3.8, [REP3-043]). Only UK European sites are addressed in this Report. No transboundary effects were raised for discussion by any IPs during the Examination.

19.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS

- 19.2.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' and the activities, sites or plans and projects to be included for further consideration in the appropriate assessment.
- 19.2.2. The European sites and qualifying features that were considered in the Applicant's assessment of LSE are listed below:
- Mole Gap to Reigate Escarpment Special Area of Conservation (SAC²¹);
 - Ashdown Forest Special Area of Conservation;
 - Ashdown Forest SPA;
 - Thames Basin Heath SPA (Ockham and Wisley and Chobham SSSI);
 - The Mens SAC;
 - Ebenoe Commons SAC; and
 - Thursley, Ash, Pirbright and Chobham SAC (Chobham Common SSSI).
- 19.2.3. Qualifying features and pathways for effects on these sites are set out in Tables A1.1 to A1.7 in Annex 1 of the RIES [PD-026].
- 19.2.4. The Applicant's HRA Report sets out the methodology including how pathways of effects were considered to determine which sites to include in the assessment. This included identifying sites within 200m of major roads where there would be an increase in traffic flows. It also includes those sites designated for bats within the potential range of the species. Data from various ES technical chapters were used to determine what would constitute a 'significant effect' within its HRA Report (para 1.2.3 and section 2, [REP3-043]).
- 19.2.5. NE agreed [REP1-037] that all relevant European sites and/ or European site features that could be affected by the Proposed Development had been identified by the Applicant, in section 3 of the HRA Report [REP3-043]. No other European sites or qualifying features were identified by IPs which could be affected by the Proposed Development.

LIKELY SIGNIFICANT EFFECTS FROM THE PROPOSED DEVELOPMENT ALONE

- 19.2.6. The Applicant identified LSE of the Proposed Development alone in Section 4 of the HRA Report [REP3-045].

²¹ In this Chapter SAC refers to Special Area of Conservation. In all other Chapters of this Report, SAC refers to Surface Access Commitments.

19.2.7. The impacts considered by the Applicant to have the potential to result in LSE alone are:

- Thames Basin Heath SPA (Ockham and Wisley Common SSSI)
 - Dartford Warbler – aerial emissions during operation on supporting habitat;
 - Nightjar – aerial emissions during operation on supporting habitat; and
 - Woodlark – aerial emissions during operation on supporting habitat.

LIKELY SIGNIFICANT EFFECTS FROM THE PROPOSED DEVELOPMENT IN COMBINATION

19.2.8. The Applicant addressed potential in combination effects arising from the Proposed Development. The methodology applied is set out in its HRA Report (paras 2.2.6 to 2.2.9, [REP3-045]). The methodology and list of projects included in the in-combination assessment are detailed in ES Chapter 20 Cumulative Effects and Inter-Relationships [APP-045] and Inter-relationships and supporting appendix [APP-045 and APP-216]. Their locations are shown on HRA Figures 20.4.2 to 20.4.4 in the Cumulative Effects and Inter-Relationship Figures [APP-051].

19.2.9. The Thames Basin Heath SPA is made up of a number of separate SSSIs. In addition to the LSE from the Proposed Development alone which could affect the Ockham and Wisley Common SSSI, the Applicant also identified potential in-combination LSE on the Thursley, Ash, Pirbright and Chobham SAC/ Chobham Common SSSI component of the SPA.

19.2.10. An in-combination LSE has been identified by the Applicant upon the following qualifying features/European sites:

- Thames Basin Heath SPA (Ockham and Wisley and Chobham Common SSSIs)
 - Dartford Warbler – aerial emissions during operation on supporting habitat;
 - Nightjar – aerial emissions during operation on supporting habitat; and
 - Woodlark – aerial emissions during operation on supporting habitat.
- Ashdown Forest SAC
 - Northern Atlantic wet heaths with Erica tetralix - aerial emissions during operation on qualifying feature;
 - European dry heaths – aerial emissions during operation on qualifying feature; and
 - Great crested newt – aerial emissions during operation on supporting habitat.
- Ashdown Forest SPA
 - Dartford Warbler – aerial emissions during operation on supporting habitat; and
 - Nightjar – aerial emissions during operation on supporting habitat.
- Thursley, Ash, Pirbright and Chobham SAC (Chobham Common SSSI)
 - Depressions on peat substates of the Rhynchosporion – aerial emissions during operation on qualifying feature;
 - Northern Atlantic wet heaths with Erica tetralix – aerial emissions during operation on qualifying feature; and
 - European Dry heaths – aerial emissions during operation on qualifying feature.

LIKELY SIGNIFICANT EFFECT ASSESSMENT OUTCOMES

- 19.2.11. The sites for which the Applicant concluded no LSE would occur from either the project alone or in combination with other plans and projects are presented in the RIES (para 2.3.4, [PD-026]).
- 19.2.12. The submitted Statement of Common Ground (SoCG) between the Applicant and the ANCB (Table 2.8.1, [REP1-037]) records agreement on the conclusions of the screening assessment. The Applicant's conclusions of potential LSE on the European sites and their qualifying features considered were not disputed by any IPs during the Examination.
- 19.2.13. The sites and features listed in paragraph 19.2.10 were assessed by the Applicant to determine if they could be subject to adverse effects on integrity, as a result of the Proposed Development alone or in combination with other plans and projects, in view of their conservation objectives.
- 19.2.14. We are satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and are satisfied with the approach to the assessment of alone and in-combination LSE.
- 19.2.15. Taking into account the reasoning set out above, we consider that the Proposed Development is likely to have a significant effect from the impacts identified in paragraphs 19.2.7 and 19.2.11 above on the qualifying features of the European sites identified when considered alone, or in combination with other plans or projects. This was not disputed by IPs/ NE during the Examination.

19.3. CONSERVATION OBJECTIVES

- 19.3.1. The conservation objectives for all of the European sites for which a LSE was identified by the Applicant at the point of the DCO application were included within section 3 of the HRA Report [REP3-043].
- 19.3.2. The updated HRA Report [REP3-043] sets out the following in relation to the conservation status for those sites screened in for LSE:
- Thames Basin Heaths SPA: there are 14 SSSIs that underpin the SPA, but paragraph 1.3.5 states that Ockham and Wisley Common SSSI and Chobham Common SSSI are the only SSSIs relevant to the assessment. Paragraph 3.7.1 states that the *“majority of units within the 14 SSSIs are in favourable condition with areas that are in unfavourable recovering condition”* but does not identify the status of units for Ockham and Wisley Common and Chobham Common SSSIs;
 - Thursley, Ash, Pirbright and Chobham SAC: paragraph 1.3.5 indicates that Chobham Common SSSI is the only SSSI component relevant to the assessment. No conservation status is provided (beyond the general commentary in paragraph 3.7.1) but it is stated that the Site Improvement Plan covers Thames Basin Heaths SPA and Thursley, Ash, Pirbright and Chobham SAC;
 - Ashdown Forest SAC – *“The majority of Ashdown Forest has been identified as unfavourable recovering, with some areas of unfavourable declining and favourable condition”* (paragraph 3.3.3); and
 - Ashdown Forest SPA – no conservation status is provided but it is stated that the Site Improvement Plan is the same as for Ashdown Forest SAC (paragraph 3.4.5).

- 19.3.3. In the RIES, we sought clarification on the information provided in relation to the conservation objectives in the HRA Report and whether the information was clear and detailed enough to inform the assessment for each site. The Applicant confirmed that the information was correct [REP8-122] and the relevant ANCB, NE [REP8-162] did not raise any issues on the level of information.

19.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY

- 19.4.1. The European sites and qualifying features identified in paragraphs 19.2.7 and 19.2.10 above were further assessed by the Applicant to determine if they could be subject to adverse effects on integrity (AEol) from the Proposed Development, either alone or in-combination. The assessment of AEol was made in light of the conservation objectives for the European sites [Section 3, REP3-043].
- 19.4.2. No additional impacts were identified during the Examination to be taken into account in the Applicant's AEol assessment.
- 19.4.3. We are satisfied, based on the information provided, that the correct impacts have been assessed. This section discusses the conclusions with respect to AEol for each site.
- 19.4.4. The Applicant's approach to the in-combination assessment is discussed above at paragraph 19.2.8.
- 19.4.5. The Applicant's conclusions in respect of adverse effects on integrity are presented in the HRA Report (Table 5.3.1, [REP3-043]).
- 19.4.6. Based on the findings of the Examination, we are satisfied that an assessment of AEol from the Proposed Development in combination with other plans or projects can be based on this information and that no other plans or projects should be taken into account.

SITES FOR WHICH THE APPLICANT CONCLUDED ADVERSE EFFECTS ON INTEGRITY CAN BE EXCLUDED

- 19.4.7. The Applicant's HRA Report [REP3-043] concluded that the Proposed Development will not result in AEol of the following European sites, alone or in-combination:
- Thames Basin Heaths SPA (Ockham and Wisley Common SSSI);
 - Ashdown Forest SAC;
 - Ashdown Forest SPA;
 - Thames Basin Heaths SPA (Chobham Common SSSI); and
 - Thursley, Ash, Pirbright and Chobham SAC (Chobham Common SSSI).
- 19.4.8. The Applicant's conclusion of no AEol for each of the sites is set out in Section 5 of [REP3-043].
- 19.4.9. AEol for the project alone was ruled out for Thames Basin Heaths SPA (Ockham and Wisley Common SSSI), as the area of the SSSI was not a supporting habitat of the qualifying bird features, within the SPA. The woodland present on the SSSI is a buffer between the heathland and the M25/A3. AEol in combination with other plans or projects was ruled out as the effects, noting minor exceptions, are limited to an area of woodland buffer proximate to the road which does not support the interest

features and therefore impacts from nutrient nitrogen deposition on such habitats would not in turn affect the qualifying features of the site.

- 19.4.10. AEol in combination with other plans or projects was ruled out for Ashdown Forest SAC/ SPA. This was on the grounds that the areas of habitat with the potential for AEol located within 10m of the A22 carriageway did not comprise either the habitat qualifying feature of the SAC or supporting habitat of the SPA birds. The HRA Report further notes that these findings correspond with those for the Tandridge Local Plan HRA.
- 19.4.11. The Applicant excluded in-combination on the Thames Basin Heaths SPA (Chobham Common SSSI) noting that the habitat found to be present does not comprise supporting habitat for the bird qualifying features. It was further noted that with the proximity of the road, restoration of the habitat was unlikely. It was determined that if restored, exceedances would not be sufficient to drive meaningful ecological change. However, the proximity to the major roads would likely deter interest feature birds from using the site.
- 19.4.12. AEol in combination with other plans or projects were ruled out for the Thursley, Ash, Pirbright and Chobham SAC as the qualifying habitat features for the SAC were not found to be present where exceedances of Nitrogen Oxides (NO_x) and nitrogen deposition were predicted to occur.
- 19.4.13. These conclusions do not require the delivery of mitigation to conclude no AEol on these sites.
- 19.4.14. Neither the ANCB, nor other IPs, raised concerns in relation to the Applicant's conclusions for these sites and features [RR-3223]. NE agreed with the conclusions of the HRA Report in their Relevant Representation.
- 19.4.15. The ExA is satisfied on the basis of the information above that AEol on all these sites and their qualifying features can be excluded. The complete details of these sites are provided in Table 19.1 below.

Table 19.1: Likely Significant Effects to European Sites and Qualifying Features for which Adverse Effects on Integrity from the Proposed Development (Alone or In-Combination) can be Excluded

European Site(s)	Qualifying Feature(s)	LSE Identified From	AEol alone	AEol in-combination
Mole Gap to Reigate Escarpment SAC	Stable xerothermophilous formations with <i>Buxus sempervirens</i> on rock slopes (Berberidion p.p.) Semi-natural dry grasslands and scrubland facies on calcareous substrates *important orchid sites <i>Taxus baccata</i> woods of the British Isles *priority feature European dry heaths Asperulofagetum beech forests Great crested newt (<i>Triturus cristatus</i>) Bechstein's bat (<i>Myotis bechsteinii</i>)	None	No	N/A
Ashdown Forest SAC	Northern Atlantic wet heaths with <i>Erica tetralix</i> European dry heaths Great crested newt (<i>Triturus cristatus</i>)	Aerial emissions during construction on all qualifying features	No	No
Ashdown Forest SPA	Dartford Warbler (<i>Sylvia undata</i>) Nightjar (<i>Caprimulgus europaeus</i>)	Aerial emissions during construction	No	No

		on all qualifying features		
The Mens SAC	Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrub layer Barbastelle bat (<i>barbastella barbastella</i>)	None	No	No
Ebernoe Common SAC	Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrub layer (or <i>Ilici-Fagenion</i>) Barbastelle bat (<i>barbastella barbastella</i>) Bechstein's bat (<i>Myotis bechsteinii</i>)	None	No	No
Thames Basin Heath SPA	Dartford Warbler (<i>Sylvia undata</i>) Nightjar (<i>Caprimulgus europaeus</i>) Woodlark (<i>Lullula aborea</i>)	Aerial emissions during construction on all qualifying features	No	No
Thursley Ash, Pirbright and Chobham SAC	Depressions on peat substrates of the <i>Rhynchosporion</i> Northern Atlantic wet heaths with <i>Erica tetralix</i> European dry heaths	Aerial emissions during construction on all qualifying features	No	No

ADVERSE EFFECTS ON INTEGRITY ASSESSMENT OUTCOMES-SUMMARY

Proposed Development Alone and In-Combination

- 19.4.16. The Applicant's HRA Report concluded that AEol can be excluded on the European site(s) listed in Table 19.1 from the Proposed Development alone, or in-combination with other plans and projects. These conclusions were agreed with the ANCB [RR-3223].

19.5. ExA's CONCLUSION ON HABITATS REGULATIONS ASSESSMENT

- 19.5.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the Proposed Development with respect to adverse effects on potentially affected sites must be assessed by the SoS.

- 19.5.2. Seven European Sites and their qualifying features were considered in the Applicant's assessment of LSE:

- The Mens SAC;
- Ebernoe Common SAC;
- Mole Gap to Reigate Escarpment SAC;
- Thames Basin Heaths SPA (Ockham and Wisley Common SSSI as a component);
- Thames Basin Heaths SPA (Chobham Common SSSI as a component);
- Thursley, Ash, Pirbright and Chobham SAC (Chobham Common SSSI component only);
- Ashdown Forest SPA; and
- Ashdown Forest SAC.

- 19.5.3. LSE were identified for the following four sites:

- Thames Basin Heaths SPA;
 - Ockham and Wisley Common SSSI as a component; and
 - Chobham Common SSSI as a component.
- Thursley, Ash, Pirbright and Chobham SAC (Chobham Common SSSI component only);
- Ashdown Forest SPA; and
- Ashdown Forest SAC.

- 19.5.4. NE confirmed it agreed with the Applicant's conclusion of no LSEs in respect of the remaining European sites identified [RR-3223].

- 19.5.5. We are satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

- 19.5.6. The Applicant's HRA Report [REP3-043] concluded that the Proposed Development will not result in AEol of the following European sites, alone or in-combination:

- Thames Basin Heaths SPA (Ockham and Wisley Common SSSI);
- Thames Basin Heaths SPA (Chobham Common SSSI); Ashdown Forest SAC;

- Ashdown Forest SPA; and
- Thursley, Ash, Pirbright and Chobham SAC.

19.5.7. NE confirmed it agreed with the Applicant's conclusion of no AEoI in respect of the remaining European sites identified [RR-3223].

19.5.8. We consider that there is sufficient information before the SoS for Transport to enable an appropriate assessment to be undertaken.

20. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

20.1. INTRODUCTION

- 20.1.1. This Chapter provides an evaluation of the planning merits of the Proposed Development. It considers the legal and policy context set out in Chapters 2 and 3, the Principle of the Proposed Development and the Need Case from Chapter 4 and individual applicable legal and policy requirements identified in Chapters 5 to 18 above. Whilst the Habitats Regulations Assessment (HRA) has been documented separately in Chapter 19, relevant facts and issues set out in that Chapter are taken fully into account.
- 20.1.2. The Proposed Development seeks to add capacity at Gatwick Airport by moving the existing northern runway and thus enabling dual runway operations. The Applicant states that this would grow the airport to a throughput of 80.2 million passengers per annum (mppa) in 2047 from their 2019 figures of 46mppa. In the absence of the Proposed Development, the Applicant considers that the Airport could grow to 67.2mppa in 2047 (the future baseline) using extant planning permissions and permitted development rights. Chapter 4 considers these figures in detail. Our conclusion also draws a distinction between the final position of the Applicant, based on the application as applied for and its final draft Development Consent Order (dDCO) and the view of the Examining Authority (ExA) using our recommended Development Consent Order (rDCO), which can be found in Appendix E to this Report.
- 20.1.3. Discussions took place during the Examination over whether the Proposed Development should be assessed against section (s) 104 or s105 of the Planning Act 2008 (PA2008). We considered these discussions in Chapter 3 and concluded that the primary focus of the Proposed Development is the airfield works and that the starting point in policy terms for the Proposed Development should be the Aviation National Policy Statement (ANPS). As this does not have effect in relation to the Proposed Development, the application falls to be considered primarily under s105 of the PA2008, but the ANPS will be both an important and relevant consideration in the determination of the application, particularly as the airport lies within the south-east of England and is considered to be a London airport.
- 20.1.4. The works to improve the M23/ A23, the North and South Terminal junctions and Longbridge roundabout are a Nationally Significant Infrastructure Project in their own right. Section 104 of the PA2008 applies to the highway elements of the Proposed Development although the highway works are subsidiary to the airfield works. Consequently, the National Networks National Policy Statement (NNNPS) is also an important and relevant consideration in the determination of the application (where appropriate).

20.2. THE PLANNING BALANCE

The Principle of the Proposed Development and the Need Case

- 20.2.1. The ExA concluded in Chapter 4 that the Proposed Development would involve works to an existing runway, and that the scale of the Proposed Development falls within the Making Best Use of existing runways (MBU) policy contained within the ANPS and 'Beyond the Horizon, the future of UK Aviation'. Such policies

demonstrate that there is a nationally recognised need for aviation development, particularly in the south-east of England.

- 20.2.2. We have concluded that the growth which is forecast for the Northern Runway Project (NRP) may not be as rapid as predicted by the bottom-up forecasts, but it would likely be 'quicker' than the top-down forecasts presented. This would lead to the benefits of the NRP in the 'early years' being overstated to a small degree, but this would not be significant and would be a relatively short-term effect.
- 20.2.3. In terms of the future baseline and NRP forecasts, the ExA is of the view that these are overly optimistic and unlikely to be realised in the timeline forecast. On the basis of the evidence submitted, considered in Chapter 4, we are of the view that a likely outcome by 2047 would be in the region of 60 to 61mppa for the future baseline and 76 to 77mppa for the NRP. This results in a delta of around 16 to 17mppa, larger than the Applicant's prediction of some 13mppa.
- 20.2.4. We consider that with the NRP Gatwick could reach 80.2mppa in due course, sometime after 2047. We are of the view that this delay would not be significant and consider that if ultimately it takes the airport longer than expected to reach anticipated levels of throughput, then, as stated in the decision to allow growth at Stansted noted in Chapter 4, the corresponding environmental effects would also take longer to materialise or may reduce due to advances in technology (including technology associated with the Jet Zero Strategy (JZS)) that might occur in the meantime.
- 20.2.5. The ANPS confirms that there is a need for additional airport capacity. We have found that the need that the Proposed Development would partially satisfy would be additional to and different from that which would be met by the London Heathrow North West Runway (LHR NWR) scheme. We therefore ascribe moderate weight to matters relating to Need and the Case for the Proposed Development. This weight applies equally to the Applicant's case under the dDCO and to the Proposed Development with the rDCO in force.

Traffic and Transport

- 20.2.6. Issues around any differences in the passenger throughput in the future baseline and the Proposed Development case were examined. However, the Applicant's commentary relating to sensitivity tests concerning these differences does not give us suitable comfort; additional impacts could arise through any such changes. Whilst the ExA has concerns that the Environmental Statement (ES) may have underestimated likely effects, the Transport Assessment (TA) has assessed junction capacities up to a level of traffic associated with 80.2mppa. The ExA considers that this provides sufficient comfort that there would not be severe residual impacts beyond those assessed in the ES and aligned with the controls proposed in the rDCO.
- 20.2.7. Notwithstanding this, there would be increased road traffic and public transport passenger journeys creating additional stress on already congested networks. Consequently, the ExA considers that traffic and transport carries a moderate level of weight against the making of the Order as applied for (the dDCO case).
- 20.2.8. In the rDCO we have recommended additional controls for the Surface Access Commitments (SAC) and parking levels. With these additional controls the harm caused would be reduced and would attract a little weight against the making of the Order.

Noise and Vibration

- 20.2.9. With regard to aircraft noise, we conclude that the Applicant has not met the requirements of ANPS paragraph 5.53 with respect to the assessment of aircraft noise and ANPS paragraph 5.60 with respect to the avoidance of significant noise effects and the minimisation of adverse noise effects from aircraft noise. As a result, we ascribe moderate weight to the issue of noise and vibration against the making of the Order in the form represented by the Applicant's final dDCO.
- 20.2.10. Based on our proposed modifications to Requirement (R)1, R15, R16, and R18, and Schedules 11 and 14 in the rDCO, which we consider would address our concerns, we find that noise and vibration effects would reduce to a neutral effect in the overall planning balance.

Air Quality

- 20.2.11. The Applicant's conclusion was that the construction and operation of the Proposed Development would not cause any significant adverse air quality effects. This conclusion had not changed during the course of the Examination. No substantive evidence was put before us that challenges this conclusion.
- 20.2.12. As reported in Chapter 5, we have concerns over the reliability of the Applicant's transport assessment because of concerns over the future baseline. We consider that a larger change in traffic would cause a larger change in air quality. However, as the predicted total concentrations would not exceed the values reported in the ES, we conclude that the Applicant's assessment of no significant residual effects on air quality would be unaltered.
- 20.2.13. The Applicant and the Legal Partnership Authorities (LePAs) reached agreement on a range of measures that would support local air quality monitoring and further work in relation to ultrafine particulates. We do not consider that any outstanding areas of disagreement between the Applicant and the LePAs are sufficient to compromise the Proposed Development when compared with the requirements of the ANPS. We therefore conclude that neutral weight should be given to the issue of air quality in the overall planning balance of the Proposed Development for both the application as applied for and the rDCO.

Greenhouse Gas Emissions

- 20.2.14. In line with requirements in the ANPS and NNNPS the Applicant has undertaken an assessment of likely significant climate factors, assessing the carbon impact against the Government's carbon obligations. This has been done before and after mitigation and assessed worst-case scenarios. Mitigation measures have been proposed to limit the carbon impact of the Proposed Development through the Carbon Action Plan (CAP) and SAC. The Applicant has assessed the likely significant climate factors of the Proposed Development and mitigation through the CAP, SAC and DCO requirements would manage the carbon footprint.
- 20.2.15. There is no dispute that the Proposed Development would increase greenhouse gas (GHG) emissions and approximately 95% of those emissions are attributable to aviation impacts. These would be regulated at national and international levels including through the JZS which seeks to ensure that Government meets legal duties including UK carbon budgets and achieving net zero by 2050.
- 20.2.16. We find no reason why airport buildings and ground operations emissions from the Proposed Development as part of wider airport operations cannot be managed to be

net zero by 2030 and to achieve zero-emissions by 2040. Nevertheless, their contribution to total GHG emissions in the short term would be considerable.

- 20.2.17. Aviation policy does not impose a capacity limit on UK airports to achieve climate change objectives and the Government's key objective on aviation emissions is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions. The Government's approach is not to directly intervene to limit aviation growth. At the same time, given legal obligations and other recent airport expansion decisions it is reasonable to believe that the Government will introduce the necessary measures to ensure that the Jet Zero trajectory is achieved and our conclusions are based on this.
- 20.2.18. Paragraphs 5.82 of the ANPS and 5.18 of the NNNPS note that any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets including carbon budgets. We have no clear evidence that the indicative 5% threshold of a carbon budget has been met, with the Applicant's own assessment indicating an effect of over 3.4%. However, the effects of non-CO₂ emissions, international inbound flights and fuel produced outside the UK were not included in the assessment which also only covers the period to 2037, not to 2050 (although it does relate to the entire airport). Nevertheless, were these other factors included, it is likely that the threshold would be reached and that a significant adverse effect in EIA terms should be recorded.
- 20.2.19. We have found that the increase in GHG emissions would be such that it is likely that there would be a material impact on achieving carbon targets which would be contrary to paragraph 5.70 of the ANPS. Consequently, the mitigation measures cannot be considered acceptable contrary to the requirement of paragraph 5.83. While the trajectory of emissions would be towards net zero by 2050, based on the JZS, the Proposed Development would not contribute to radical reductions in GHG emissions as required by the National Planning Policy Framework (NPPF).
- 20.2.20. We have reviewed recent airport expansion decisions and legal challenges and note that the SoS's decision in respect of Manston Airport concluded that carbon emissions should be given neutral weight. However, in the light of the Finch and West Cumbria cases as well as the Carbon Budget Delivery Plan we find that the landscape in respect of GHG emissions has changed. Accordingly, GHG emissions should be afforded moderate weight against the Proposed Development in the planning balance.

Climate Change

- 20.2.21. The ExA is satisfied that the Applicant has undertaken its assessment in accordance with the approach proposed in the ANPS. We agree with the Applicant's conclusion that there are unlikely to be any significant effects associated with climate change and we are satisfied that there are not features of the design critical to its operation which may be seriously affected by more radical changes to the climate beyond that projected.
- 20.2.22. We have taken account of concerns about overheating arising from the noise insulation scheme and while we do not consider that the Applicant's preferred approach would overcome these concerns, R18 in the rDCO would address this matter.

20.2.23. Consequently, we conclude that the requirements in respect of climate change set out in the ANPS and NNNPS are met. Our overall conclusion is that climate change would have a neutral effect in the planning balance and does not weigh for or against the making of the Order either as applied for or with the rDCO in place.

Socioeconomics

20.2.24. We are satisfied that the Applicant has undertaken an appropriate assessment in terms of socioeconomics and that the assessment has adequately identified the effects of the Proposed Development. We are satisfied that the Proposed Development would provide significant beneficial effects in terms of the availability of labour, due to the airport attracting additional staff, and direct, indirect, and induced employment. Estimates of such employment forecasts were common ground by the end of the Examination between the Joint Local Authorities and the Applicant. Gatwick Airport is already an important employer in the area and currently supports a significant level of local employment and the possible economic benefits from the Proposed Development, if realised, would undoubtedly result in both local and national economic growth. We are also content that the Applicant has adequately justified the methodology it has followed to assess catalytic effects.

20.2.25. There would be significant employment opportunities created by the Proposed Development. Additionally, we are satisfied that following further engagement with local authorities and stakeholders, the Applicant has sought to maximise further employment and educational opportunities. We are also satisfied that, given the very small proportion of construction workers who would require accommodation, significant adverse effects on the availability of affordable housing and private rented accommodation would not be experienced as a result.

20.2.26. We are mindful of the housing emergency faced by Crawley Borough Council (CBC), but we are satisfied that the provision of the Homelessness Prevention Scheme and associated funding could provide a mechanism for the mitigation of potential housing effects. The availability of employment lies at the heart of inclusive economic growth and the alleviation of poverty. It is also widely accepted that good quality employment can have positive influences on an individual's overall health and wellbeing. We also consider that the initiatives set out in the Employment, Skills and Business Strategy (ESBS) would promote and increase health equity by enabling greater accessibility to employment for local vulnerable groups. The measures included within the ESBS would, through training, employment and procurement initiatives, aid in removing barriers to employment.

20.2.27. We have reviewed the key principles of the proposed Gatwick Community Fund and consider them to be appropriate. The proposed governance arrangements would allow for any affected communities to be part of the process in delivering the benefits that would come from the fund and this would respond directly to the effects of the development over a prolonged period.

20.2.28. We are therefore satisfied that the Proposed Development would support economic development in both the local area and nationally. Such effects would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for the future baseline and the Proposed Development, as found in Chapter 4 of this Report.

20.2.29. Accordingly, we ascribe moderate weight to matters relating to socioeconomics in favour of the Order being made under the dDCO and the rDCO.

Water Environment

- 20.2.30. The ExA is satisfied that there are no outstanding construction and operational issues relating to flood risk, water supply and water quality that would not be satisfactorily controlled by the dDCO.
- 20.2.31. Discussions were ongoing during the Examination concerning the capability and capacity of the public sewer network (PSN) to accommodate additional flows arising from the Proposed Development, with a potential onsite Wastewater Treatment Works (WTW) identified as a possible solution. The preference from the Applicant and the Environment Agency was for wastewater flow to be discharged into the existing PSN. We concluded that there needs to be some certainty as to the ability of Thames Water Utilities Limited (TWUL) infrastructure to accommodate the additional wastewater flows before any consideration that an alternative onsite WTW should be constructed. We are therefore recommending that an amended R31 that would allow for both alternative options, but first preference would be given to the connection to the PSN under TWUL's control.
- 20.2.32. The ExA considers that on the basis of the flood risk, wastewater, water supply and water quality considerations set out above that the Proposed Development accords with the relevant sections on the ANPS and the NNNPS. Therefore, should the SoS accept the amended R31 as drafted in the rDCO the ExA considers that the Proposed Development should be given neutral weight in the overall planning balance. If the SoS were not minded to accept the ExA's amended R31 and the wastewater issues remain unresolved, the overall conclusion would be that it would attract a little weight against making the Order.

Landscape and Townscape

- 20.2.33. Harm would be caused to various receptors during construction and operation, until landscaping mitigation has matured. The ES found harm to various receptors, to which the ExA has also found that harm would be caused at:
- Pentagon Field;
 - North Terminal Long Stay Car Park (NTLSCP);
 - Car Park X;
 - Car Park Y; and
 - A23 highways works.
- 20.2.34. Some harm would be caused to nationally designated landscapes, with the highest levels of harm to the High Weald National Landscape. However, harm to all identified nationally designated landscapes would be minor. Such levels of harm would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for the future baseline and the Proposed Development.
- 20.2.35. The Proposed Development would not compromise the purposes of designation of the relevant nationally designated areas. With respect to the duty under s85 of the Countryside and Rights of Way Act 2000 (and s245 of the Levelling Up and Regeneration Act 2023), the Proposed Development would conserve such areas, but would not enhance them.
- 20.2.36. The ExA ascribes a little harm on matters relating to landscape and townscape against the making of the Order. This conclusion applies to both the dDCO and rDCO.

Historic Environment

- 20.2.37. The ExA considers that controls in the Order as applied for (the dDCO) and the Written Schemes of Investigation provide adequate control and mitigation for archaeological purposes.
- 20.2.38. The ES finds harm to various heritage assets, The ExA agrees with the conclusions of the ES and Historic England (HE) except for the Grade II* listed Charlwood House and Charlwood Park Farmhouse. Here, the ExA considers harm would be caused by the construction of nearby car parks.
- 20.2.39. The ExA notes the views of various parties over the potential effects of increased air traffic over significant heritage assets in Kent. However, the Applicant has complied with the relevant sections of the ANPS and has correctly carried out the appropriate HE noise metric test. On the basis of the results of this test and the conclusions of HE, the ExA considers that the Proposed Development would not increase harm to the setting of such heritage assets.
- 20.2.40. The harm to all the assets identified in Table 12.5 of this Report would be less than substantial, and the ExA is satisfied that the Proposed Development would not result in substantial harm to any designated or non-designated heritage assets.
- 20.2.41. Within the range of less than substantial, harm would be at the lower end of the scale to all identified assets (with some only being affected temporarily). Nevertheless, where there is harm, the SoS must give that harm considerable importance and weight. Such levels of harm would not be affected by the conclusions of the ExA with regard to the forecast traffic levels for the future baseline and the Proposed Development, as found in Chapter 4.
- 20.2.42. Due to the number of assets identified where harm occurs, the ExA ascribes moderate harm to matters relating to the historic environment against the making of the Order. This harm applies to both the Order as applied for and to the Order with the ExA's rDCO. This harm is weighed against the public benefits of the Proposed Development in this chapter below.

Ecology

- 20.2.43. The ExA has given careful consideration to the views of IPs, to the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, Natural England (NE). We find that the Applicant has addressed those concerns as far as possible in line with the policy within the ANPS and referenced through the relevant Local Impact Reports (LIR) as important and relevant matters.
- 20.2.44. While there would be adverse effects on some habitats and protected species during construction arising from the loss of woodland habitat, these impacts would be temporary but long term until mitigation planting matures.
- 20.2.45. During the operational phase, the Applicant's proposed mitigation and compensation measures would ensure that there would be no significant adverse residual effects on ecology and the habitat creation/ enhancement measures secured through the outline Landscape and Ecology Management Plan would result in significant beneficial effects. In addition, we consider that there is an overall benefit from Biodiversity Net Gain (BNG). However, as the proposed BNG calculations fall foul of habitat trading rules and do not include all land within the Order Limits, we consider that this would carry limited weight.

- 20.2.46. Mitigation and compensation measures would be adequately secured through requirements R7, R8, R28 and R39 of the rDCO as well as Schedule 6 of the s106 agreement.
- 20.2.47. Nevertheless, because of the timescale to achieve the beneficial effects, our overall conclusion in respect of ecology is that a little weight should be ascribed against the Order as applied for. This conclusion also applies to the Order with the ExA's rDCO.

Health and Wellbeing

- 20.2.48. We find that the Applicant's assessment of health and wellbeing has been appropriately undertaken in line with the requirements of paragraphs 4.70 to 4.73 of the ANPS and paragraphs 4.81, 4.82, 5.7 and 5.195 of the NNNPS. In respect of mitigation, apart for the issue of overheating, we consider the Applicant has identified suitable means of mitigation. In terms of overheating, as detailed above, we do not find the Applicant's preferred approach to be satisfactory and consider the inclusion of R18 in the rDCO to be necessary.
- 20.2.49. In conclusion, we find that the Proposed Development would accord with the ANPS, NNNPS, other relevant legislation and policy requirements and we are satisfied that, with the inclusion of R18 in the rDCO, that mitigation would be adequately provided for and secured. Consequently, with the inclusion of R18 the health and wellbeing effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order.
- 20.2.50. However, should R18 in the rDCO not be included, we consider that the health and wellbeing effects of the Proposed Development should attract a little weight against the making of the Order.

Land Use and Recreation

- 20.2.51. The Applicant's assessment of land use and recreation has been appropriately undertaken in line with the requirements of the ANPS and the NNNPS. We are satisfied that there would no loss of Best and Most Versatile land and consider the Applicant has taken appropriate measures to safeguard soil resources and ensure effective reinstatement is secured through the need for submission and approval of a Soil Management Plan prior to the commencement of construction, which would be secured by R29.
- 20.2.52. Further mitigation, provided through R8 of the dDCO, would also ensure the appropriate delivery of replacement open space as required through paragraph 5.181 of the NNNPS.
- 20.2.53. Consequently, the land use and recreation effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order, either as applied for or as provided with the ExA's rDCO.

Other Matters

- 20.2.54. All conclusions in the topics considered under 'Other Matters' apply equally to the Order being applied for and the ExA's proposed rDCO.

Consideration of Alternatives

- 20.2.55. The ExA considers that all questions raised were answered satisfactorily by the Applicant and that the application considered realistic alternatives, given the

constricted nature of the site and the specifics of the Proposed Development. We consider that there are no matters relating to site selection and alternatives which would weigh for or against the Order being made.

Geology and Ground Conditions

- 20.2.56. We have concluded that the Code of Construction Practice (CoCP) as secured by R7 in the dDCO is sufficient to address effects relating to geology and ground conditions and have concluded that neutral weight should be given to the issue of geology and ground conditions in the overall planning balance.

Major Accidents and Disasters

- 20.2.57. Gatwick Airport is already a busy airport with well-established safety plans and procedures. The Applicant has set out that the increase in passenger numbers and aircraft movements does not present any additional impacts that would not be addressed by these existing plans and procedures. This is agreed by the Civil Aviation Authority who state that *“there are no obvious safety-related impediments why the project should not progress with respect to safety considerations at the Airport.”*
- 20.2.58. During construction the Applicant’s emergency procedures would be developed in accordance with the CoCP. The CoCP would be a certified document listed in Schedule 14 and secured by Article 52 of the dDCO.
- 20.2.59. Taking all of these matters into account the ExA concludes that the Proposed Development would have a neutral effect in the planning balance.

Resource and Waste Management

- 20.2.60. The ExA finds that the Applicant’s assessment of resource and waste management has been appropriately undertaken in line with the requirements of paragraphs 5.141 of the ANPS and 5.42 of the NNNPS. Mitigation, provided through R25 and R30 of the rDCO would minimise the volume of waste arisings and the volume of waste sent to landfill thereby reducing the risk of adverse impacts associated with resource and waste management as required through paragraphs 5.136 and 5.143 to 5.145 of the ANPS and 5.43 to 5.44 of the NNNPS. Consequently, the resource and waste management effects of the Proposed Development can be considered to be neutral and do not weigh for or against the making of the Order.

Cumulative Effects

- 20.2.61. The assessment of cumulative and inter-related effects is based on the mitigation measures identified within each of the environmental topic chapters of the ES. The ExA concludes that the Applicant’s assessment accords with paragraphs 4.14 and 4.15 of the ANPS, and paragraphs 4.16 and 4.17 of the NNNPS. Paragraph 17.6.5 identifies some temporary and permanent effects which are taken into account in Chapter 12 of this Report. Given that no further significant residual cumulative effects are identified in this assessment the ExA considers that neutral weight should be given to cumulative effects in the overall planning balance.

Good Design

- 20.2.62. We have concluded that the design detail accompanying the application meets the required standard. The Applicant has demonstrated how the design process was conducted and how the proposed design evolved. While the design of various elements of the Proposed Development could be more detailed, the ExA is mindful

that it is reasonable for the Applicant to maintain some design flexibility for the Proposed Development. The various documents that make up the design case for the Proposed Development are reasonably clear to read across the various documents and no harm arises from design advice falling within separate documents.

- 20.2.63. Aside from the NTLSCP, we agree with the list of works in Schedule 12 in the dDCO. While the ExA considers that a Design Review Panel for wider elements of the Proposed Development would have been of benefit, the introduction of the Design Advisor to the Examination as Annex A to the Design Principles is welcomed by the ExA. Design of specific elements of the Proposed Development is adequately covered by the various design based and other documents. The provisions of R4 of the dDCO changed through the Examination and controls over design of the specific elements of the Proposed Development would be more demanding than under the provisions of the Town and Country Planning (General Permitted Development) Order 2015.
- 20.2.64. Taking all the above together, and with the suggested alteration to Schedule 12 included in the rDCO, the ExA considers that the Proposed Development satisfies the provisions of the ANPS in relation to good design. The ExA considers that the Proposed Development will be as sustainable and as aesthetically sensitive, durable, adaptable and resilient as it can reasonably be, having regard to regulatory and other constraints including accounting for natural hazards such as flooding. In coming to this view the ExA has taken into account the ultimate purpose of the infrastructure and borne in mind the operational, safety and security standards which the design has to satisfy.
- 20.2.65. The ExA ascribes a little weight on matters relating to Good Design in favour of the Order being made under the rDCO. Should the NTLSCP not be included in Schedule 12 of the final DCO (if granted) and the Order as applied for then this weight would reduce to neutral (neither in favour or against the Proposed Development).

Habitats Regulations Assessment

- 20.2.66. Whilst the Secretary of State (SoS) is the competent authority under the Habitats Regulations and will make the definitive assessment, the ExA is satisfied on the basis of the information provided that Adverse Effects on Integrity on all relevant sites and their qualifying features can be excluded.

20.3. ASSESSMENT AGAINST SECTION 105 OF THE PLANNING ACT 2008

- 20.3.1. This chapter summarises the benefits and disbenefits of the Proposed Development. The purpose of this section is to consider them together to reach a recommendation as to whether the case is made for granting development consent.
- 20.3.2. Section 105 of the PA2008 states that in deciding the application the SoS must have regard to:
- Any local impact report,
 - Any matters prescribed in relation to development of the description to which the application relates, and
 - Any other matters which the SoS thinks are both important and relevant to the SoS's decision.

- 20.3.3. In reaching its conclusions, the ExA has had particular regard to the LIRs submitted. The individual chapters in this Report have considered the relevant sections of the LIRs in their individual recommendations, summarised above. Chapter 2 of this Report notes that no overall conclusion was drawn on the Proposed Development as a whole in the Joint West Sussex Local Authorities and East Sussex County Council (ESCC) LIRs, while the LIRs of the Joint Surrey Councils, Kent County Council, and Sevenoaks District Council raised concerns that acknowledged economic and strategic benefits did not override environmental considerations.
- 20.3.4. The ANPS and the NNNPS (where appropriate) are important and relevant considerations in the determination of the application. The ExA notes that in paragraph 1.41 of the ANPS it states that the ANPS will be '*particularly*' important and relevant where it relates to London or the south-east of England, and that among the considerations that will be important and relevant are the findings as to the need for new airport capacity.
- 20.3.5. The ANPS stresses the importance of aviation to the UK economy and the need for new airport capacity. Beyond the Horizon, the Future of UK aviation (Making Best Use of Existing Runways) also states that the Government is supportive of airports beyond Heathrow making best use of their existing runways.
- 20.3.6. We have concluded that the Proposed Development would make the best use of an existing runway and that there is a nationally recognised need for aviation development, particularly in the south-east of England. We also note that the current capacity at London airports falls far short of this need, and that the need that has been shown to be present for Gatwick's growth is both largely additional to, and different from the need that would be met by the LHR NWR runway scheme. In our view the partial fulfilment of such need that would be provided by the Proposed Development weighs moderately in favour of the Proposed Development.
- 20.3.7. We note that Gatwick Airport is already an important employer in the area and currently supports a significant level of local employment and that the potential economic benefits from the Proposed Development, if realised, would undoubtedly result in both local and national economic growth. There would be significant employment opportunities created by the Proposed Development and the Applicant has sought to maximise further employment and educational opportunities. The Proposed Development also has the potential to improve the airport environs with the correct detail paid to matters of good design.
- 20.3.8. On the other hand, we have found that the Proposed Development would cause harm in various areas. Of particular significance is that we have found, in the light of the Finch case, that the scale of GHG emissions arising from the Proposed Development would be such that it is likely that there would be a material impact which would be contrary to paragraph 5.70 and 5.83 of the ANPS. The Proposed Development would also not contribute to radical reductions in GHG emissions as required by the NPPF. Our judgment is that a significant effect in EIA terms should be recorded and that, taking into account the JZS, it is likely that the Proposed Development would have a material effect on achieving carbon targets.
- 20.3.9. Harm has also been found in the Order as applied for in matters of traffic and transport, ecology, noise, the water environment, health and wellbeing, and landscape and townscape. Great weight must also be given to harm to heritage assets.

Our Conclusions

- 20.3.10. Consideration of the Proposed Development is therefore clearly finely balanced, and we acknowledge that our recommendation is too. The Proposed Development and our consideration of it was complex and we are grateful to the many Interested Parties who gave up their time to participate in the Examination, which was improved greatly by their expertise.
- 20.3.11. Essentially there are three possibilities to our recommendation: that we recommend that the Order is not made; that the Order is made with the Applicant's dDCO; or that the Order is made with the rDCO. These are considered in turn.

Refusal Scenario

- 20.3.12. It is relevant to consider the position if the Order were not made. Submissions by the Applicant clarified the controls over the existing use of the airport. The extant planning permission (CR/128/79) restricts the existing use of the northern runway, and: *"Beyond that, there are no planning controls on the growth of the airport, including regarding numbers of flights or hours of operation"* [REP1-057].
- 20.3.13. An agreement under s106 of the Town and Country Planning Act 1990 (s106 agreement) was first entered into between the Applicant, West Sussex County Council (WSSCC) and CBC in 2001. This has been rolled forward a number of times with the latest version executed in 2022 due to expire on 31 December 2024. We understand that an extension to this s106 agreement is planned to operate from 1 January 2025 until the DCO is approved (if it is). The obligations within the s106 agreement seek to manage and mitigate operational aspects of the airport and airport related development on the environment while promoting the positive contribution to the local economy. Night flight restrictions are also set by Government periodically as Gatwick is a designated airport under s78 of the Civil Aviation Act 1982. The current designation (to October 2025) sets a movement limit of 11,200 movements in the summer and 3,250 in the winter between the hours of 23:30 and 06:00.
- 20.3.14. At Issue Specific Hearing 9 the ExA asked whether, if development consent were not approved for the Proposed Development, the existing controls would be retained. The Applicant confirmed that existing obligations would be retained but also noted that the current s106 agreement is time limited and subject to review. The LePAs affirmed this but noted that it could not be assumed that the baseline conditions in 2019 would remain unchanged by 2047.
- 20.3.15. The Applicant's future baseline for traffic levels in 2047 is 67mppa. In Chapter 4, the ExA has concluded that a more likely outcome would be in the region of 60 to 61mppa. However, this may grow in subsequent years. Therefore, without the Proposed Development, the airport could grow to 61mppa and above with no planning controls on the growth of the airport, other than a s106 agreement which was based on historic obligations, and the night flight restrictions imposed by Government.
- 20.3.16. If development consent were granted, in either scenario, the controls that would be introduced would be in place from the date the Order was made and would be in place throughout the growth of the airport from that date, thereby effectively applying not only to the growth of the Proposed Development, but also the underlying future baseline.

The Order as Applied for (the Applicant's dDCO) Scenario

- 20.3.17. The Applicant's dDCO would introduce a wider range of controls than the existing position. In our view under the dDCO moderate levels of harm would be caused to matters of GHG emissions, traffic and transport, and noise, along with a little harm to matters relating to the water environment and health and wellbeing. In this scenario the harm that the Proposed Development would cause would outweigh the benefits.

The Order with the ExA's rDCO Scenario

- 20.3.18. By contrast, the rDCO would introduce a wide range of detailed planning controls on the operation of the Proposed Development, such that harm levels would be reduced in matters of traffic and transport and removed in relation to noise, the water environment and health and wellbeing. Additional benefit would also result from good design. Under this scenario the benefits of the Proposed Development would outweigh the identified harms, including public benefits sufficient to outweigh harm to heritage assets.

ExA's OVERALL CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

- 20.3.19. For all of the above reasons and having had regard to the LIRs as well as the findings and conclusions on important and relevant matters set out in this Report, the ExA concludes that:
- with the Applicant's dDCO Development Consent should not be granted
 - with the ExA's rDCO approval should be granted for the Proposed Development.
- 20.3.20. In coming to this view the ExA notes that the Joint Local Authorities (JLAs) (comprising in this instance CBC, Mid Sussex District Council, WSCC, Reigate and Banstead Borough Council, Mole Valley District Council, Tandridge District Council, Surrey County Council, and ESCC) would not object to consent if the DCO were to include additional measures to control and regulate the Proposed Development as detailed in their response at Deadline 8. While the ExA's rDCO does not contain all the details requested by the JLAs, particularly on the topic of environmentally managed growth, the rDCO does in the ExA's view provide necessary, relevant, enforceable, precise and reasonable controls over the Proposed Development such that adverse impacts would be mitigated as far as possible.
- 20.3.21. The ExA also notes that the Applicant has stated with regard to the proposed requirements for air noise and surface access within the ExA's proposed rDCO that the Proposed Development "*would not take place*" or that they "*would not choose to implement a DCO which had the wording recommended by the ExA*". However, as above, we consider that such controls meet the six tests contained within paragraph 4.9 of the ANPS and are therefore justified.
- 20.3.22. In Chapter 3 we noted that the LePAs considered that the application should be decided against s104 of the PA2008 (as opposed to s105 and s104), but that both they and the Applicant agreed that whichever interpretation is adopted would not materially affect the outcome of the decision. We agree with that view.
- 20.3.23. While the highway works are subsidiary to the airfield works, the NNNPS does have effect in relation to such works and consequently we have considered those elements of the application having regard to s104(2) of the PA2008. We have found

that because of the Proposed Development there would be increased road traffic and public transport passenger journeys creating additional stress on already congested networks. We find that the highway elements of the Proposed Development for which the NNNPS has effect would carry moderate weight against the making of the Order based on the Applicant's dDCO, with this reduced to a little weight when the rDCO is taken into account.

21. COMPULSORY ACQUISITION AND RELATED MATTERS

21.1. INTRODUCTION

21.1.1. The case for compulsory acquisition (CA) and temporary possession (TP) is examined in accordance with the tests in the Planning Act 2008 as amended (PA2008). CA, TP and other land or rights considerations were identified as a principal issue in the Rule 6 letter [PD-009]. The Examining Authority (ExA) examined matters relating to:

- the need for the amount of land proposed to be subject to CA and TP;
- alternatives in relation to individual plots;
- whether the intended use for the plots was clear;
- whether funding would be available;
- whether the Applicant's case for the Proposed Development would be in the public interest and justify interference with Human Rights and would accord with the Equality Act 2010; and
- interference with Statutory Undertakers' (SU) land and apparatus.

21.1.2. The full extent of the land which would be subject to powers of CA and required to enable the Applicant to construct the Proposed Development, as described in the Statement of Reasons (SoR) [REP9-009] is shown on the Land Plans [REP10-007], Works Plans [REP7-018], Crown Land Plans [REP9-016] and Special Category Land Plans [REP9-018]. It is further described in the Book of Reference (BoR) [REP9-011 and REP9-013], the Explanatory Memorandum (EM) [REP9-008] and in documents comprising the Environmental Statement (ES).

21.1.3. The Applicant's final Navigation Document [REP10-002] charts the submission of these documents and provides a guide to the structure of the application and its principal contents.

21.1.4. This Chapter follows the structure set out below:

- 13.2 Legislative Requirements;
- 13.3 The Request for Compulsory Acquisition and Temporary Possessions Powers;
- 13.4 The Applicant's General Case;
- 13.5 Approach to the Examination of the Compulsory Acquisition and Temporary Possession Case;
- 13.6 Individual Objections and the Applicant's and Examining Authority's Responses;
- 13.7 Statutory Undertakers;
- 13.8 Crown Land;
- 13.9 Special Category Land;
- 13.10 The Examining Authority's Consideration of the Case for Compulsory Acquisition and Temporary Possession; and
- 13.11 Conclusions.

21.2. LEGISLATIVE REQUIREMENTS

PLANNING ACT 2008

21.2.1. CA powers can only be granted if the conditions set out in section (s)122 and s123 of the PA2008 are met, together with relevant guidance. The relevant guidance is

the Procedures for the Compulsory Acquisition of Land, DCLG (former Department for Communities and Local Government), September 2013 (the CA Guidance).

- 21.2.2. Section 122(2) of the PA2008 requires that the land must be required for the Proposed Development to which the development consent relates or is required to facilitate or is incidental to the development or under s122(2)(c) is for replacement land for the Order land under s131 or s132 (a common, open space or fuel or field garden allotment). In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate, as set out in the CA Guidance.
- 21.2.3. Section 122(3) requires that there must be a compelling case in the public interest which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. That does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the Proposed Development. There must be a need for the Proposed Development to be carried out and there must be consistency and coherency in the decision-making process.
- 21.2.4. Section 123 of the PA2008 requires that one of three conditions is met, namely that:
- the application for the Order includes a request for CA of the land to be authorised;
 - that all persons with an interest in the land consent to the inclusion of the provision; or
 - that the prescribed procedure has been followed in relation to the land.
- 21.2.5. Several general considerations also have to be addressed either as a result of following applicable guidance or in accordance with legal duties on decision-makers:
- all reasonable alternatives to CA must have been explored;
 - the Applicant must have a clear idea of how it intends to use the land and to demonstrate that funds are available to meet the compensation liabilities which might flow from the exercise of CA powers; and
 - the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.
- 21.2.6. TP powers are capable of being within the scope of a Development Consent Order (DCO) under Part 1 of Schedule 5. The PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to deprive or amend a person's interest in land permanently. However, TP is an interference with human rights of Affected Persons (AP) and so there must be adequate justification of the scope of the powers and the degree of interference for them to be justified.
- 21.2.7. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept them into the Examination.
- 21.2.8. Section 115 (2) of PA2008 provides that, in addition to the development for which consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for associated development. The PA2008 defines associated development as development which is associated with the principal development.

- 21.2.9. Section 120(5)(a) of the PA2008 provides that a DCO may apply, modify, or exclude a statutory provision which relates to any matter for which provision may be made in the DCO and s117(4) provides that, if the DCO includes such provisions, it must be in the form of a statutory instrument. Since in certain instances the Applicant's final draft Development Consent Order (dDCO) seeks to apply s120(5)(a), it is in the form of a statutory instrument.

NEIGHBOURHOOD PLANNING ACT 2017

- 21.2.10. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations for which TP can be sought, NPA2017 provisions in general terms provide for enhancements to the rights of persons subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the time of submission of this Recommendation to the Secretary of State (SoS) for Transport, the relevant NPA2017 provisions had not commenced.
- 21.2.11. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Chapter of the Report.

21.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS

POWERS SOUGHT

- 21.3.1. The powers being sought by the Applicant and how they relate to the principal articles in the dDCO are set out in the SoR [para 3.3.4, REP9-009]. An explanation of the Articles is set out in the EM [REP9-008].
- 21.3.2. The powers sought in the dDCO relate to the CA of land (Article 27), the CA of rights and imposition of restrictive covenants (Article 28), the CA of land – incorporation of the mineral code (Article 29), the statutory authority to override easements and other rights (Article 30) and private rights of way (Article 32).
- 21.3.3. Paragraph 3.3.4 of the SoR [REP9-009] also confirms that the Land Plans [REP10-007] show plots of pink, blue and green which together comprise the Order land. The Order land is made up only of those plots of land over which the Applicant is applying for the acquisition of land (shown as pink) or permanent acquisition rights (shown as blue, or green in the case of presumed highway) through the Proposed Development. It should also be noted that the Applicant is also applying for TP powers over the full extent of the Order land.

CHANGES DURING THE EXAMINATION

- 21.3.4. As detailed in Section 1.6 of Chapter 1 of this Report, changes to the application documents, including to the wording of the dDCO, were made during the Examination. Three change requests were submitted into the Examination and consisted of the following:
- First change request:
 - Project change 1, an extension to the design parameters for the north terminal international departure lounge proposed southern extension;

- Project change 2, a reduction in height of the proposed replacement Central Area Recycling Enclosure (CARE) facility and change in the purpose of the CARE facility; and
 - Project change 3, a revision to the proposed water treatment works.
- 21.3.5. The ExA agreed with the Applicant that the proposed changes were non-material. In the Rule 8 Letter [PD-011], the ExA therefore included a Procedural Decision (PD) to accept the proposed changes into the Examination.
- Second change request:
 - Project change 4, the provision of on-airport Wastewater Treatment Works.
- 21.3.6. The ExA agreed with the Applicant that the proposed changes were non-material and issued a PD [PD-023] to accept the proposed change request into the Examination.
- Third change request:
 - Project change 5, a revision to the Order Limits at the Holiday Inn, Povey Cross Road, RH6 0BA to facilitate a temporary access point and associated works.
- 21.3.7. The ExA agreed with the Applicant that the proposed changes were non-material and to accept the proposed change request into the Examination [PD-027].
- 21.3.8. Changes are described in more detail later in this Chapter where they relate to specific areas of land and/ or persons with interest in land, where objections have not been withdrawn. Further detail in respect of the submitted documents comprising the change requests are detailed in Table A2 of Appendix A of this Report.

STATUTORY UNDERTAKERS' LAND

- 21.3.9. If a SU makes a representation about the CA of land or a right over land which would be acquired for the purpose of its undertaking, and this is not withdrawn, s127 of the PA2008 applies. In these circumstances, the Order can only include a provision authorising the CA of that land or right if the SoS is satisfied that the land or right can be purchased without serious detriment to the carrying on of the undertaking, or that any such detriment can be made good by use of alternative land.
- 21.3.10. S138 of the PA2008 applies where a SU has a relevant right or relevant apparatus in the CA land. In those circumstances, the Order can only authorise the extinguishment of the right or removal of the apparatus if the SoS is satisfied that this is necessary for the purpose of carrying out the development to which the Order relates.
- 21.3.11. The Applicant's final position in terms of negotiations with the SU is set out in Compulsory Acquisition and Temporary Possession-Status of Negotiations [REP9-110]. At the close of the Examination there were no outstanding objections from SU.

CROWN LAND

- 21.3.12. The Applicant confirmed in the SoR that it is seeking the CA of interests in Crown land, other than the interests of the Crown [REP9-009]. Section 135 of the PA2008 confirms that a DCO may authorise the acquisition of interests in Crown land only if

those interests are not owned by or on behalf of the Crown and if the appropriate Crown authority consents. Crown consent is therefore required in relation to these interests. The BoR [REP9-013, Part 4] and the Crown Land Plans [REP9-016] identify the relevant plots.

SPECIAL CATEGORY LAND

21.3.13. Sections 131 and 132 of the PA2008 state that an Order granting development consent that authorises the CA of common land or open space or rights over such land would be subject to Special Parliamentary Procedure (SPP) unless the SoS is satisfied that one of the corresponding subsections applies.

21.3.14. Schedule 10 of the dDCO [REP10-004], the BoR [REP9- 013, Part 5] and the Special Category Land Plans [REP9-018] confirm that the Applicant is seeking CA powers over special category land and rights over the following:

- special category land to be permanently acquired is required for the highway improvement works to the A23 London Road, A23 Brighton Road and Longbridge Roundabout; and
- rights proposed to be acquired over the western and southern edges of Church Meadows, land south of the A23 Brighton Road and along the southern edge of Riverside Garden Park to facilitate construction activity on neighbouring plots of land. The rights acquired would allow temporary use of the areas in connection with the activities, whilst the highway improvement works and works to construct the pedestrian bridge over the River Mole to the west of Church Meadows take place. Once construction has concluded, these rights would no longer be necessary.

THE PURPOSES FOR WHICH LAND IS REQUIRED AND EXTENT OF POWERS SOUGHT

21.3.15. Land to be acquired and rights sought are necessary for the Proposed Development to facilitate alterations to the existing northern runway at Gatwick Airport which, together with the lifting of the current restrictions on its use, would enable dual runway operations. The Applicant's case is that the powers sought in its final dDCO [REP10-004] as set out in the SoR are reasonable, proportionate, and necessary to deliver and thereafter maintain the Proposed Development [REP9-009].

21.3.16. The CA powers sought by the Applicant are set out in Part 5 of the Applicant's final dDCO [REP10-004], Articles 27 to 46. The Applicant stated that the CA and TP of land and rights in land is necessary to deliver the Proposed Development, with the extent of the land and rights to be acquired drawn to avoid any unnecessary interference with third-party land. It argued that a proportionate approach to CA and TP is taken, mindful of the impact on affected landowners. It seeks to acquire only such land and rights which would be necessary to ensure dual runway operations and associated development.

21.3.17. The dDCO would give additional rights to the undertaker that could interfere with property rights and other interests through Article 23 (Protective work to buildings), Article 24 (Authority to survey and investigate the land) and Article 25 (Felling or lopping of trees and removal of hedgerows).

21.3.18. The Land Rights Tracker [REP7-065] and the Compulsory Acquisition and Temporary Possession – Status of Negotiations [REP9-110] include details of the purpose for which CA and TP powers are sought with tables indicating:

- use and class of rights sought by plot number; and
- a schedule of negotiations with land interests, showing status of negotiations with APs.

21.4. THE APPLICANT'S GENERAL CASE

21.4.1. The Applicant's case for the grant of CA powers is set out in the SoR [REP9-009]. The SoR explains that it forms part of a suite of documents accompanying the application and should be read alongside those documents. These include:

- Land Plans [REP10-007];
- Special Category Land Plans [REP9-018];
- Crown Land Plans [REP9-016];
- Book of Reference [REP9-011] and [REP9-013];
- Funding Statement [APP-009];
- Draft DCO [REP10-004]; and
- Explanatory Memorandum to the draft DCO [REP9-008].

21.4.2. In respect of the Land Plans [REP10-007], the plots are coloured to indicate the type of power that is required. The colours used are:

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

21.4.3. The green notation was introduced by the Applicant towards the close of the Examination to address concerns raised primarily by National Highways (NH) regarding the extent of permanent acquisition sought in the dDCO as originally proposed, over highways which NH controls. The Applicant was satisfied that this reduced acquisition would still enable the effective delivery of the Proposed Development.

21.4.4. Where a plot is shown as grey on the Land Plans, no powers of CA or TP are sought in the dDCO. The plots are, overall, within the existing airport boundary and form part of the operational airport. The land has been included within to make clear that such land, forming part of the operational airport, would remain subject to, as well as benefitting from, the powers and controls secured by the dDCO.

21.4.5. The Applicant confirmed [REP9-009] that it is not anticipating carrying out works related to the Proposed Development within most of the plots coloured grey. They were included within the Order land as once detailed design progresses it may be necessary for minor works such as protective works or utility diversion works to be undertaken on such land, and so it may need to benefit from the corresponding powers within the dDCO. Within this context the Applicant considered that it either already had sufficient land rights over these plots, as the overwhelming majority fall within the Applicant's freehold ownership, or it could obtain the land rights through private agreement where necessary, and without requiring any powers of CA or TP.

21.4.6. The other plots shown as grey related to the proposed temporary alternative access to the Holiday Inn Hotel, whilst the Longbridge Roundabout works are constructed. The Applicant has not sought powers of CA or TP over this land however this land has been included within the Order land for reasons detailed in paragraphs 1.6.49 to 1.6.61 of this Chapter.

- 21.4.7. The Applicant further confirmed that all plots coloured pink, or blue or green on the Land Plans would also be subject to TP powers and a statutory authority to override easements and other rights, and to extinguish private rights of way upon the appropriation of the land for the purposes of the Proposed Development
- 21.4.8. The Applicant's strategic case for the Proposed Development was made based on the critical importance of aviation to the nation's economic health and the UK's status in the world. The Applicant refers to current government policy in respect of the commitment to global connectivity to facilitate sustainable growth [REP9-009]. Additionally, the Applicant referred to the constrained nature of the UK's aviation sector and the effect that this has on the quality and efficiency of the UK's airports, which are also apparent at Gatwick Airport. The Applicant considers that the Proposed Development is an innovative way of achieving additional runway capacity for Gatwick, the South-East and for the UK without the scale of land take and associated impacts normally associated with providing a new additional runway [REP9-009]. We have reported on the need case in Chapter 4 of this Report.
- 21.4.9. The Applicant also sets out the alternatives that were considered with regard to the process it followed in terms of the three scenario options available in the Gatwick Airport Master Plan and any changes made resulting from statutory and non-statutory consultation [APP-228]. This is also reported on in Chapter 4 of this Report.
- 21.4.10. The Applicant stated that it had drawn the extent of the land and rights to be acquired to avoid any unnecessary interference with third-party land. It further stated that it had taken a proportionate approach to the proposed CA, mindful of the impact on APs and seeks to acquire only such land and rights which would be necessary to ensure securing the land and/ or rights required to facilitate the delivery of the Proposed Development.
- 21.4.11. In the s127 and s138 cases, which relates to SU land, the Applicant set out the reasons why CA powers are sought in the dDCO for the acquisition of land and interest in land held by SU and how the relevant tests are met in the SoR [REP9-009]. The relevant plots are described in (BoR) ([REP9-011 and REP9-013]) and on the Land Plans [REP10-007].
- 21.4.12. The Applicant also confirmed that any person affected by CA and TP would be entitled to compensation under Article 28 and Schedule 8 of its final dDCO [REP10-004]. The accompanying Funding Statement demonstrated that funding would be likely to be available to build the Proposed Development and to enable the CA within the statutory timescale in accordance with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the APFP Regulations) [APP-009].
- 21.4.13. The Applicant stated that it is not aware of anything that is likely to prevent the grant of consent. The need for other consents is set out in the List of Other Consents and Licences [REP8-092], which the SoR [REP9-009] states would not present any impediment to the implementation of the Proposed Development. The SoR also sets out the Applicant's position regarding Human Rights.

21.5. APPROACH TO EXAMINATION OF THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION CASE

INTRODUCTION

- 21.5.1. Examination of CA and TP issues was undertaken through procedural decisions (PD), including written questions, the ExA's dDCO commentary, six requests under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Rule 17), at two Open Floor Hearings (OFH) and two Compulsory Acquisition Hearings (CAH) and observations of land on accompanied and unaccompanied site inspections (ASI and USI).
- 21.5.2. The Applicant complied with requests for updates of standalone documents relating to CA and TP at certain deadlines as set out in the Examination Timetable.

21.6. INDIVIDUAL OBJECTIONS AND THE APPLICANT'S AND EXAMINING AUTHORITY'S RESPONSES

INTRODUCTION

- 21.6.1. This part of the Chapter considers representations made by APs under s127 and s138 of the PA2008, including representations made at CAHs and OFHs.
- 21.6.2. The ExA's considerations on each of the individual objections made in relation to specific plots and the rights and powers sought are addressed, consideration then goes forward to inform the finding on the general case in respect of all plots.
- 21.6.3. The ExA has considered all the objections received and many of the issues raised by objectors have also been considered in earlier parts of this Report when considering the planning issues arising in relation to the Proposed Development. The objections considered here are done so in the context of the application for the grant of CA and TP powers. Other objections have also been received from APs listed in the BoR. However, these other objections refer to concerns not directly related to CA or TP and are therefore not reported in this Chapter.
- 21.6.4. The ExA examined CA objections against the tests set out in s122 and s123 of the PA2008, having regard to the CA Guidance. The ExA also considered objections to the application for powers of TP under Articles 37 and 39 of the dDCO [REP10-004] and by those who may be able to make a claim under s10 of the Compulsory Purchase Act 1965 or Part I of the Land Compensation Act 1973. Similarly, the ExA has had regard to the Human Rights Act 1998 and the Equality Act 2010 in considering the application for the grant of CA and TP powers.
- 21.6.5. In considering these objections, the ExA noted the Compulsory Acquisition and Temporary Possession – Status of Negotiations provided by the Applicant at D9 [REP9-110]. This identifies the Relevant and Written Representation (RR) and (WR) objections made and the plots concerned, a description of the land and rights requested. The document also identified any other documents submitted by APs and the relevant reference numbers relating to the Applicant's responses.

PERSONS WITH AN INTEREST IN LAND/ AFFECTED PERSONS

BRITANNIA HOTELS LIMITED

- 21.6.6. Britannia Hotels Limited (BH) has an interest in plots 1/087, 1/089, 1/090, 1/091 and 1/092, which form part of the Britannia Hotel and surrounding land, where the

Applicant was seeking both the permanent acquisition of land and rights and TP in connection with Work No. 37 and for minor works which may include protective works, access, or utility diversions.

- 21.6.7. BH submitted a RR [RR-0529] stating that it was willing to negotiate a fee for the land edged blue on the land plan, however if a reasonable fee could not be agreed it would seek to object to the Proposed Development. Additionally, BH stated it wasn't clear from the provided plans as to why the land was required.
- 21.6.8. Furthermore, in respect of the land required for permanent acquisition, BH confirmed it was generally not inclined to consent to such an agreement. BH also submitted a WR [REP1-119] which made the same points as detailed in its RR.
- 21.6.9. In response to BH RR [REP1-048], the Applicant confirmed that its agent had been attempting to discuss and negotiate a consideration for a voluntary agreement. Whilst the first proposed figure was declined by BH, no further meetings, or a counteroffer had been received by the Applicant. The Applicant stated that it would continue to attempt to negotiate and would encourage BH to submit a counter proposal. In response to the WR [REP3-072], the Applicant confirmed that the land in the proposed location was required for the construction of the surface access highway improvement works as part of the Proposed Development.
- 21.6.10. At CAH1 [EV14-001 to EV14-002] the Applicant confirmed that the strip of land would be required to widen the road and embankment for the A23 London Road and to provide the new active travel path for pedestrians on the west side of the A23 London Road. It was also confirmed that a decision in respect of the location of the hotel signage would be made post consent, at the detailed design stage, but that it would remain within the existing land plot.
- 21.6.11. At CAH2, the Applicant confirmed that, despite Head of Terms (HoTs) being sent to BH, it had still not received any substantive response. In its Closing Submissions [REP9-112] the Applicant confirmed that it would continue to attempt to make contact and progress an agreement, however it can only do so if BH was willing to enter into such an agreement.

ExA's Conclusion on Britannia Hotels Limited

- 21.6.12. In terms of adequacy of consultation and information, there is evidence of consultation and engagement with BH during the pre-application period and during the Examination ([APP-224], [APP-242], [APP-243], and [REP7-065]).
- 21.6.13. Agreement between the parties had not been reached by the end of the Examination. However, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.
- 21.6.14. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the Order be granted. The ExA also considers that the Recommended DCO (rDCO) includes adequate compensation provisions. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and competing factors and interests. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

DAVID JONATHAN SMITH

- 21.6.15. Mr D J Smith has an interest in plots 1/005 and 1/006 which is approximately 223 square metres (m²) of public road on Church Walk. It was confirmed by the Applicant in the BoR [REP9-011] that the land in question is adopted highway, and that Mr D J Smith is the freeholder. As such, the plots in question are shaded green on the land plans as the Applicant is seeking the creation of new rights or the imposition of restrictive covenants in respect of presumed highway in connection with Work No. 37 and for minor works which may including protective works, access or utility diversions. No representations were made by Mr D J Smith during the course of the Examination.
- 21.6.16. The Applicant confirmed in its Closing Submissions [REP9-112] and Compulsory Acquisition and Temporary Possession – Status of Negotiation [REP9-110] that it had made numerous attempts at correspondence and undertaken extensive investigations, but by the close of the Examination had been unable to contact Mr D J Smith. The Applicant also posted letters at the site of the land parcel to provide updates on the progress of the Proposed Development and to also give Mr D J Smith further opportunities to contact the Applicant.

ExA's Conclusion on David Jonathan Smith

- 21.6.17. In terms of adequacy of consultation and information, there is evidence of consultation and attempted engagement with Mr D J Smith during the pre-application period and during the Examination ([APP-224], [APP-242], [APP-243], and [REP7-065]).
- 21.6.18. Agreement between the parties had not been reached by the end of the Examination. However, the ExA is satisfied that the CA of the relevant rights in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.
- 21.6.19. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

DBM CONTRACTORS LIMITED

- 21.6.20. Dbm Contractors Limited (Dbm) has an interest in plots 1/030, 1/033 and 1/041 which includes 110 m² of public road, footway, and verge on the Brighton Road, A23, 112m² of woodland south of Brighton Road, A23 and 1076 m² square metres of woodland, south of Brighton Road, A23. The Applicant is seeking the permanent acquisition of land and TP in connection with Work No. 37. No representations were made into the Examination by Dbm.
- 21.6.21. The Applicant confirmed in its Land Rights Tracker [REP7-065] that HoTs had been issued to Dbm and it did not see any reason why a voluntary agreement could not be concluded. However, in May 2024 Dbm requested that the Applicant purchased the land parcels in question outright, prior to the end of the Examination. The Applicant advised that it was unwilling to do so until a decision in respect of the

dDCO had been made and would continue to attempt to negotiate terms for an Option Agreement.

- 21.6.22. At the close of the Examination, the Applicant confirmed that it had not received any further settlement negotiations from Dbm but would continue to attempt to progress a voluntary agreement.

ExA's Conclusion on DBM Contractors Limited

- 21.6.23. In terms of adequacy of consultation and information, there is evidence of consultation and attempted engagement with Dbm during the pre-application period and during the Examination ([APP-224], [APP-242], [APP-243], and [REP7-065].
- 21.6.24. Agreement between the parties had not been reached by the end of the Examination. However, the ExA is satisfied that the CA and TP of the relevant interests in this AP's land would be necessary to implement the Proposed Development, no feasible alternatives have been brought forward and that it would be reasonable and proportionate to do so.
- 21.6.25. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

HORLEY ESTATES LIMITED

- 21.6.26. Horley Estates Limited (HRE) has an interest in the following plots:
- 1/028 - consists of 40m² of grassed area and shrubbery, west of Woodroyd Avenue;
 - 1/043 - consists of 9m² of land comprising car parking space at 72 Longbridge Road, RH6;
 - 1/044, 1/045, 1/048 and 1/054 – each plot consists of 15 square metres of garage at land south of Brighton Road, A23; and
 - 1/051 - consists of 15 square metres of garage at land south-west of Harlow Service.
- 21.6.27. In respect of the above plots, the Applicant was seeking both the permanent acquisition rights and TP in connection with minor works which may including protective works, access or utility diversions.
- 21.6.28. The Applicant confirmed in its Land Rights Tracker [REP7- 065] that whilst initial discussions and the issue of HoTs had taken place, HRE confirmed prior to D5 that they no longer wished to progress a voluntary agreement with the Applicant. Despite this, the Applicant confirmed that it would continue to communicate with HRE to establish whether the position had altered.

ExA's Conclusion on Horley Estate Limited

- 21.6.29. Whilst it is disappointing that negotiations were unable to progress to a conclusion with HRE, if agreement is not reached through negotiation, the ExA is satisfied that the CA and TP of the relevant interests in this AP's land would be necessary to

implement the Proposed Development and that it would be reasonable and proportionate to do so.

- 21.6.30. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

WALNUT GARDENS LIMITED

- 21.6.31. Walnut Gardens Limited (WG) has an interest in the following plots:
- 1/012 - consists of 52m² of hardstanding and verge at Horley Service Station;
 - 1/016 - consists of 219m² of hardstanding and woodland at Horley Service Station;
 - 1/022 and 1/023 - each plot consists of 18m² and 24m² of shrubbery at Horley Service Station;
 - 1/033 and 1/040 – each plot consists of 112m² and 35m² of woodland, south of Brighton Road, A23.
- 21.6.32. In respect of the above plots, the Applicant was seeking both the permanent acquisition of land and rights and TP in connection with Work No. 37 and minor works, including protective works, access, or utility diversions. No representations were made into the Examination by WG.
- 21.6.33. The Applicant confirmed in its Land Rights Tracker [REP7-065] that whilst initial discussions and the issue of HoTs had taken place, limited responses to correspondence had been received.
- 21.6.34. At D7 the Applicant provided a further update stating that it had continued to attempt to negotiate with representatives for WG, and it had provided updated wording from the Code of Construction Practice (CoCP) [REP8-024], which was relevant to WG land. However, the Applicant confirmed that an option agreement and a Memorandum of Understanding (MoU) was rejected by WG [REP9-110]. At the close of the Examination, the Applicant confirmed that it would continue to attempt negotiations to try to agree a voluntary agreement.

ExA's Conclusion on Walnut Gardens Limited

- 21.6.35. In terms of adequacy of consultation and information, there is evidence of consultation and attempted engagement with WG during the pre-application period and during the Examination ([APP-224], [APP-242], [APP-243], and [REP7-065]).
- 21.6.36. Whilst it is disappointing that agreement had not been reached through negotiation, the ExA is satisfied that the CA and TP of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.
- 21.6.37. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate

compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

AIRPORT INDUSTRIAL PROPERTY TRUST

- 21.6.38. Airport Industrial Property Trust (AIPUT) is a limited partner in the Airport Industrial Limited Partnership, the General Partner of which is Airport Industrial GP Limited (AIGPL). AIGPL, together with its wholly owned subsidiary Airport Industrial Nominees Limited (AINL), own the legal title to the leasehold land and have rights in certain parcels of land to which the Proposed Development relates to. AIPUT, AIGPL and AINL made their submissions into the Examination as a group under the name 'AIPUT'.
- 21.6.39. AIPUT has an interest in the following plots:
- E/36 - Viking House, Perimeter Road South, Gatwick South Side, Gatwick, RH6 0PA;
 - 6/733 and 6/736 - each plot consists of 31m² and 480m² of footway and verge on Perimeter Road South;
 - 6/734 and 6/737 - each plot consists of 57m² and 69m² of access splay on Perimeter Road South but excludes all interests of the Crown; and
 - 6/740 - consists of 32m² of verge on Perimeter Road South.
- 21.6.40. The Applicant is seeking the permanent acquisition of land and rights in connection with minor works, including protective works, access, or utility diversions in particular adjacent to Work No. 42, which is related to the establishment of a habitat enhancement area along Perimeter Road East and Perimeter Road South, including replacement hedgerows and habitat suitable for bats along Crawler's Brook.
- 21.6.41. AIPUT raised objection in their RR [RR-0041] and WR [REP1-165] to the CA of rights in relation to Viking House, which fronts onto Perimeter Road, as it was considered that the CA had not been adequately justified. AIPUT requested further information on Work No. 42 and any potential impacts on airside access. The main concern raised was that a strip of land in the northern part of Viking House adjacent to Perimeter Road South, which relates to Plots 6/733, 6/734, 6/737 and 6/740, was proposed to be subject to powers of CA. However, AIPUT commented that the Works Plans [APP-017] did not propose any particular works relating to this part of the Viking House site, and the SoR [APP-010] did not adequately explain the reasons why this area was required for the Proposed Development to justify the use of CA powers.
- 21.6.42. In response to both AIPUT's RR and WR [RR-0041] and [REP1-065], the Applicant confirmed that it had a vested interest in ensuring that the airport roads and associated infrastructure would be maintained into the future and that any impacts arising from the Proposed Development would be mitigated as far as possible, and the Applicant did not intend to prevent access to terminals via internal roads or otherwise. The Applicant stated its commitment to working with AIPUT to ensure these outcomes. The Applicant also confirmed that in respect of Work No. 42, there was no proposal to alter the airside access.

- 21.6.43. It is noted that whilst AIPUT raised concern in respect of the Applicant's level of engagement, at [REP7-122] AIPUT stated that the Applicant had been more proactive in progressing discussions and revised HoTs had been received.
- 21.6.44. At the close of the Examination, the Applicant confirmed [REP9-112] that both parties were in the process of finalising HoTs with the aim that a draft option agreement would follow shortly thereafter. The Applicant also acknowledged the concern regarding any potential loss of access to Viking House if the CA powers were to be accessed in full. However, the Applicant signposted to their commitment to the protection of access in the CoCP [REP8-024].
- 21.6.45. At D10, AIPUT [REP10-034], confirmed that HoTs were close to being signed. AIPUT also stated that the HoTs also provided for the completion of the option agreement between the parties within 8 weeks following the close of the Examination, at which point AIPUT agreed it would write to the SoS confirming the withdrawal of its objection and representations to the dDCO.
- 21.6.46. Whilst both parties confirmed they were working collaboratively to finalising the HoTs, if the option agreement was not completed within the 8-week period, AIPUT stated [REP10-034] that it reserved the right to make further representations to the SoS with regard to the CA of its land interests and to ensure the concerns raised during the Examination are addressed in the made DCO, should the SoS be minded to grant the DCO.

ExA's Conclusion on Airport Industrial Property Trust

- 21.6.47. The efficacy and timeliness of the Applicant's willingness to engage over land matters was criticised by AIPUT and this is noted by the ExA. Whilst it is disappointing that negotiations were unable to progress to a conclusion with AIPUT prior to the close of the Examination, if agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant land and rights in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.
- 21.6.48. As any further submission from AIPUT or the Applicant would be after the close of the Examination, this would not be able to be considered as part of our Recommendation but may be available to the SoS. Should agreement between AIPUT and the Applicant be submitted to the SoS during the Recommendation or Decision period, as parties have suggested they might be, the SoS would be able to rely on these to be satisfied that terms have been negotiated satisfactorily.
- 21.6.49. The ExA considers that the CoCP [REP8-024] would secure adequate mitigation in respect of measures to protect access to existing commercial enterprises. Furthermore, we consider the Applicant's approach in relation to the CA powers sought in respect of this land and rights to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

MARATHON ASSET MANAGEMENT MCAP GLOBAL FINANCE (UK) LLP

- 21.6.50. Marathon Asset Management MCAP Global Finance (UK) LLP (MAM) act on behalf of HICP Limited & HI (London Gatwick) and have an interest in the following plots:
- 1/009 - consists of 53m² of verge, north-west of the Longbridge Roundabout;
 - 1/026 - consists of 348m² of private road and verges, south of Reigate Road, A217;
 - 1/057 - 1762m² of Reigate Road, A217, private road off Reigate Road, A217 and footways and verges;
 - 1/061 - 90m² of public road, verge and footway on Reigate Road, A217;
 - 1/062 - 316m² of grassed area and woodland, west of Longbridge Roundabout; and
 - 1/072 - 11m² of woodland, north of Povey Cross Road.
- 21.6.51. In respect of the above plots, the Applicant was seeking both the permanent acquisition of land and rights and TP in connection with Work No. 37 and minor works, including protective works, access, or utility diversions.
- 21.6.52. Whilst MAM stated in both its RR [RR-2703] and WR [REP1-221 and 222] that it did not oppose the principal of the Proposed Development, it had significant concerns about potential effects on both the Holiday Inn London Gatwick Airport and the hotel operations. The specific concerns in respect of land take related to:
- that there would be excessive and unjustified permanent compulsory land take;
 - the permanent land take as proposed was excessive and not clearly justified;
 - the sole access to the Hotel is proposed for permanent acquisition; and
 - there was a lack of clarity over the actual need to CA rights.
- 21.6.53. In terms of hotel operations, it was primarily concerned that construction activities associated with Work No.37 would result in significant noise disturbances which would affect guests staying at the hotel. This was considered of particular concern as MAM confirmed that the hotel has contracts with several airlines who use it for crew and as such, quiet conditions are necessary.
- 21.6.54. Prior to CAH2, the Applicant submitted a Covering Letter [AS-152], a Third Notification of Proposed Change Report [AS-153] and a Third Change Application Report [REP7-097]. The proposed change request related to a minor extension to the Order Limits to include an additional 0.175ha of land at the Hotel, to facilitate the construction of a temporary access point, a temporary bus parking layby, temporary traffic management measures and associated drainage provisions.
- 21.6.55. Following further land referencing checks, the Applicant confirmed that Surrey County Council (SCC) had additional minor land interests over the land associated with the proposed change. Consent was not obtained from SCC for the inclusion of CA powers over the additional land. As such, s123 of the PA2008 could therefore not be satisfied and the Applicant confirmed that it was no longer seeking CA powers over the additional land.
- 21.6.56. Despite this the Applicant confirmed it would be extending the Order land to include the additional land, and that the powers sought in the dDCO would apply to the land and would be used to carry out the proposed works. The Applicant did not consider that not including powers of CA over the additional land would present an impediment to the delivery of the proposed work as consent to the inclusion of the land had been obtained from the freeholder/ leaseholder to the land, for whose benefit the change is being promoted and the works would be carried out.

- 21.6.57. During CAH2 [EV19-003 to EV19-005], the Applicant confirmed that SCC land interests related to the verge which adjoined the highway within which it is a highway authority. The Applicant stated that it would incorporate this element of the Proposed Development into its wider discussions with SCC, in their capacity as landowner, but noted that in any event it was necessary to seek their consent as highway authority under Article 21 of the dDCO.
- 21.6.58. On 14 August 2024, the ExA accepted the Change Request [PD-027] as it agreed that the proposed change would be non-material and would not be so substantial as to constitute a materially different project and therefore could be accepted into the Examination.
- 21.6.59. MAM accepted that the creation of a new temporary access would be the only feasible solution to ensure continuity of access and business at the Hotel during the Longbridge Roundabout construction works [REP7-141]. However, concern was raised by MAM at various points during the Examination in respect of the status and speed of negotiations with the Applicant. Despite this MAM acknowledged that discussions were continuing between parties and that HoTs had been agreed and it was anticipated that the commercial terms would be concluded prior to the close of the Examination [REP8-170].
- 21.6.60. Whilst it was agreed that both parties were continuing to work collaboratively towards completion of the contemplated commercial agreement, at D9 MAM [REP9-303] confirmed that it was unlikely that a commercial agreement would be concluded by the close of the Examination. As such, draft Protective Provisions (PP) were provided and a request made to the ExA for these to be included in the rDCO, to protect MAM's interests [REP9-303].

ExA's Conclusion on Marathon Asset Management MCAP Global Finance (UK) LLP

- 21.6.61. Whilst it is disappointing that negotiations were unable to reach a conclusion, we note that both MAM and the Applicant referred to the likelihood of commercial terms being agreed between the parties. If agreement is not reached through negotiation, the ExA is satisfied that the CA and TP of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities.
- 21.6.62. Certainly, in our view such agreement between MAM and the Applicant would obviate the need for PP as submitted by MAM at D9. However, the SoS might wish to clarify this position with MAM, if it has not submitted further comment. However, as no agreement had been reached prior to the close of the Examination, we consider it appropriate to include the PP as drafted by MAM to protect their interests. Further detail in respect of this matter is considered in Chapter 22 of this Report.

GATWICK GREEN LIMITED

- 21.6.63. Gatwick Green Limited (GGL) has an interest in the following plots:
- 4/463 - consists of 5617m² of hardstanding north of M23 and public footpath UF001/368/30;
 - 4/469 - consists of 403m² of verge and hedgerow, north of M23;
 - 4/472 - consists of 12m² of hardstanding and verge east of Peeks Brook Lane;

- 4/473 - consists of 431m² of hardstanding and hedgerow east of Peeks Brook Lane;
- 4/476 - consists of 432m² of agricultural land and hedgerows south of M23 and public footpath CRA/367Sy/1;
- 4/478 - consists of 918m² of agricultural land and shrubbery south of M23 and public footpath CRA/367Sy/1;
- 4/479 - consists of 1695m² of agricultural land, hedgerows and shrubbery south of M23;
- 4/483 - 3906 m² of agricultural land, hedgerows and shrubbery south of M23 and public footpath CRA/367Sy/1;
- 4/485 and 4/487- both plots consist of 57m² and 1050m² of shrubbery and hedgerows south of M23;
- 4/489 - 840m² of public road, verges, and hedgerows on Balcombe Road, B2036; and
- 4/491 - 114m² of shrubbery and hedgerows east of Balcombe Road, B2036.

- 21.6.64. In respect of the above plots, the Applicant was seeking both the permanent acquisition of land and rights and TP in connection with Work No. 35 and minor works, including protective works, access, or utility diversions.
- 21.6.65. It was confirmed by GGL at [REP8-153] that an agreement in-principle had been reached, however this agreement was subject to the approval of NH as the agreement related to proposed access to an existing balancing pond located in plots 4/463 and 4/467.
- 21.6.66. At the close of the Examination the Applicant maintained [REP9-112] that it is seeking powers over the land to ensure that it could provide the access NH require to maintain the pond and to ensure that the Proposed Development is deliverable and that it is always provided with unimpeded access to the pond. The final nature of that physical maintenance access provision would be confirmed at the Detailed Design stage in consultation with NH.

ExA's Conclusion on Gatwick Green Limited

- 21.6.67. Whilst it is disappointing that negotiations were unable to reach a conclusion, we note that both GGL and the Applicant indicated that the possibility of commercial terms being agreed between the parties following the close of the Examination. The ExA notes that the access solution under debate with NH is outside of the Order Limits and refers to operational commitments from both the Applicant and NH and no amendments are required in respect of the extent of the Order Limits or the Land Plans to deliver the access solution.
- 21.6.68. As any further submission from GGL or the Applicant would be after the close of the Examination, this would not be able to be considered as part of our Recommendation but may be available to the SoS. Should agreement between GGL and the Applicant be submitted to the SoS during the Recommendation or Decision period, the SoS would be able to rely on these to be satisfied that terms have been negotiated satisfactorily.
- 21.6.69. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the

CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

THE ARORA GROUP

- 21.6.70. The Arora Group (AG), which includes Agut Limited and Ah6 Limited, has an interest in the following plots:
- 1/209 - consists of 377m² of access splay and private road east of Northway and excludes all interests of the Crown;
 - 4/492 - consists of 3026m² of woodland and shrubbery south of M23;
 - 4/493 - consists of 288m² of woodland and shrubbery west of Balcombe Road, B2036
 - 4/496 - consists of 3370m² of car park at Schlumberger House;
 - 4/544 - consists of 760m² of private road at Buckingham Gate Road but excludes all interests of the Crown; and
 - 6/700 - consists of 182m² of hardstanding east of London Road, A23.
- 21.6.71. In respect of the above plots, the Applicant was seeking both the permanent acquisition of land and rights and TP in connection with Work Nos. 35 and 36, and minor works, including protective works, access, or utility diversions.
- 21.6.72. At the close of the Examination, the outstanding objection related to land outside the Sofitel Hotel (Plot 1/209), north terminal which is used as a drop off area. Concern by AG focused on the potential effect on the use of this parcel of land and the wider implications for the hotel. In addition, concern was also raised in respect of the possibility for significant noise disturbance from any works as there are bedroom windows which would directly abut the construction areas.
- 21.6.73. At D5 [REP5-119], AG confirmed the Applicant had stated in a meeting that no design work had been commissioned and commented that *"In terms of the drop off areas at the Premier Inn/Sofitel at the North Terminal, we understand your concerns. However, without more design work to our forecourt areas we're unable to move this one forward at the moment so suggest we re-visit this at a later date"*.
- 21.6.74. Whilst AG confirmed at D8 [REP8-137] that the Applicant had provided some indicative proposals and a MoU, the proposed land take would still result in operational difficulties to the hotel. The Applicant had provided a verbal guarantee to always maintain access to the drop off point, however AG stated that no specific details were provided. In respect of the noise concerns, AG confirmed that the Applicant had offered terms to minimise noisy works to certain hours, but again no specific detail had been provided. AG also confirmed that several of the commercial terms contained within the HoTs were unacceptable in their current form as they appeared excessive, unreasonable, and not commercially viable.
- 21.6.75. As such, AG commented that they felt that they had been left in an impossible situation whereby their only course of action was to continue to object as the Applicant appeared to be making no effort to offer a solution.

ExA's Conclusion on The Arora Group

- 21.6.76. The efficacy and timeliness of the Applicant's willingness to engage over land matters was criticised by AG and this is noted by the ExA. We also note that similar objections were raised by MAM on behalf of the Holiday Inn in respect of the potential effect on hotel operations. However, significant progress was made during

the Examination to provide feasible solutions to the objections raised. As such, the ExA is disappointed that similar progress and attention was not shown to AG.

- 21.6.77. Nevertheless, the ExA notes that specific reference is made to the north terminal forecourt in the Design and Access Statement (DAS) [AS-155] at paras 5.7.13.2 and 5.7.13.3. It is stated that *'The forecourts and approaches to both existing terminals will be enhanced, with routes providing access to the terminal frontage, car parks, hotels and pick-up and drop-off areas for different transport modes. The way in which access is managed for different modes may change in order to optimise the use of available capacity. The detailed design of these works is to be determined at the next stage of design and will be integrated at this time with the more developed Surface Access works'*.
- 21.6.78. Taking all these matters together, we accept that some design solutions are not available during the Examination and can only be progressed once the detailed design phase has been reached. This is further reflected in the DAS Appendix 1 – Design Principles [REP8-090] which includes Detailed Built Form Design Principles 35 and 36, which relate specifically to the North and South Terminal forecourts. As such, the ExA is satisfied that any physical and technical concerns raised by AG would not preclude the design of appropriate access to the drop off point(s).
- 21.6.79. In respect of the concerns raised regarding construction noise and hotel bedrooms, as detailed above, the ExA is disappointed that agreement in respect of technical solutions were not advanced during the Examination. Notwithstanding this, the ExA is satisfied that the Applicant is now working with AG to understand the operational impacts of the Proposed Development and that an in-principle agreement could be reached between the parties in respect of both minimising noise and associated levels of disturbance, alongside of ensuring access to the required drop off point(s).
- 21.6.80. Whilst it may be possible that agreement is reached regarding commercial terms between the parties, any further submission from AG or the Applicant would be after the close of the Examination and this would not be able to be considered as part of our Recommendation. However, should agreement between AG and the Applicant be submitted to the SoS during the Recommendation or Decision period, the SoS would be able to rely on these to be satisfied that terms have been negotiated satisfactorily.
- 21.6.81. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. Whilst we note the criticism of the Applicant's level of engagement, we consider the Applicant's approach in relation to the CA powers sought in respect of this land to be overall acceptable, should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities.

CHESHIRE WEST AND CHESTER BOROUGH COUNCIL

- 21.6.82. Cheshire West and Chester Borough Council (CWCBC) has an interest in plot 5/672 which consists of 27690m² of building and hardstanding at Purple Parking, Airparks Gatwick Long Term Parking and BP Pulse Charging Station.
- 21.6.83. In respect of the above plot, the Applicant is seeking the permanent acquisition of land in connection with Work Nos. 4 and 33 and is proposing that CWCBC and the tenant, Q-Park Limited, are relocated to the eastern section of existing Car Park X.

- 21.6.84. At D7, the Applicant confirmed [REP7-065] that although discussions on a land agreement had been progressing, they had been slowed by requests from CWCBC for detailed information about the designs of the proposed replacement Car Park X. The Applicant confirmed that it had advised that detailed designs had not been carried out at this stage but to provide CWCBC with the assurances that they were seeking, the Applicant proposed a workshop on site to work through the detail relating to the facilities to be provided on Car Park X. The Applicant further proposed commitments for CWCBC to be involved in and approve detailed designs at the time they are completed and was working with CWCBC on the wording of such commitments for the legal agreement. The Applicant confirmed that both HoTs and a MoU had been issued to the landowner and it was awaiting further comment.
- 21.6.85. At the close of the Examination, the Applicant confirmed that a meeting had been held in August with CWCBC to further discuss details regarding the facilities to be provided on Car Park X. A commitment was made by the Applicant to also continue to negotiate terms with CWCBC to try to agree a voluntary arrangement [REP9-110].

ExA's Conclusion on Cheshire West and Chester Borough Council

- 21.6.86. From the information provided by the Applicant at the close of the Examination, the ExA understood that negotiations were at an advanced stage, and that it was hopeful that agreement between the parties could be reached. We are content with the Applicant's proposed land swap, on the understanding that the facilities provided meet the requirements of CWCBC and their tenant, Q-Park Limited.
- 21.6.87. Whilst it may be possible that agreement is reached regarding commercial terms between the parties, any further submission from CWCBC or the Applicant would be after the close of the Examination and this would not be able to be considered as part of our Recommendation. However, should agreement between CWCBC and the Applicant be submitted to the SoS during the Recommendation or Decision period, the SoS would be able to rely on these to be satisfied that terms have been negotiated satisfactorily.
- 21.6.88. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities.

MALHURST SOUTH EAST LIMITED

- 21.6.89. Malhurst South East Limited (MSEL) has an interest in the following plots:
- 1/080 - consists of 78m² of building at the Longridge Roundabout service station, verge, hardstanding and woodland south-west of Longbridge Roundabout; and
 - 1/082, 1/084 and 1/085 - the plots consist of 46m² square metres, 22m² and 109m² of building at the Longridge Roundabout service station.
- 21.6.90. In respect of the above plots, the Applicant is seeking the permanent acquisition of land and rights in relation to the above plots in connection with Work No. 37.

- 21.6.91. In its RR, MSEL [RR-0156] raised objection in relation to the Esso petrol filling station adjacent to the Longbridge Round, Horley as it considered that the proposed land take would potentially render the petrol filling station unusable or would materially impact the operation, its trading potential, and hence its overall viability.
- 21.6.92. The Applicant confirmed in its Land Rights Tracker [REP7- 065] that discussions with MSEL had been productive. However, MSEL had requested specific design details which the Applicant confirmed could not be provided until detailed design has been carried out. The Applicant stated its commitment to keeping MSEL informed as the design progresses and confirmed it had made several commitments to minimise disturbance where possible, and these commitments had been included in a MoU.
- 21.6.93. At D9 [REP9-112] the Applicant confirmed that whilst an agreement had not been finalised, both parties were finalising the MoU for providing HoTs to be agreed during the detailed design phase. In respect of the concern raised regarding the operational requirements of the filling station, the Applicant further stated that the measures within the CoCP in respect to access [REP8-024] would ensure impacts to the property would be minimised.

ExA's Conclusion on Malhurst South East Limited

- 21.6.94. The ExA considers that the CoCP [REP8-024] would secure adequate mitigation in respect of measures to protect access to existing commercial enterprises. The ExA also notes that such mitigation would not prevent a landowner's ability to make a claim under relevant statutory regimes that may apply.
- 21.6.95. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities.

REIGATE AND BANSTEAD BOROUGH COUNCIL

- 21.6.96. Reigate and Banstead Borough Council (RBBC) has an interest in the following plots:
- 1/004 - consists of 753m² of the river, beds and banks of the River Mole;
 - 1/007 - consists of 3549m² of grassed area and shrubbery north of Brighton Road, A23 and public footpath UF001/574/10;
 - 1/007A - consists of 781m² of grassed area and shrubbery north of Brighton Road, A23
 - 1/008 - consists of 1304m² of scrubland north-east of Longbridge Roundabout and public footpath UF001/574/10;
 - 1/020 - consists of 10m² of land on the south-east side of Brighton Road, Horley public road, Brighton Road, A23 above river, beds and banks of the River Mole;
 - 1/035 - consists of 50m² of public road on Brighton Road, A23;
 - 1/036 - consists of 121m² of scrubland and woodland north of London Road, A23;
 - 1/050, 1/070, 1/071 and 1/094 - the plots consist of 62, 41, 56, and 77m² of woodland south of Brighton Road, A23;
 - 1/052 - consists of 122m² of woodland south of Brighton Road, A23 and river, beds and banks of the River Mole;

- 1/053 - consists of 90 m² of river, beds and banks of the River Mole;
- 1/059 - consists of 4m² of woodland south of Brighton Road, A23;
- 1/064 - consists of 116m² of public road and footway on London Road, A23;
- 1/069 - consists of 2746m² of wooded area east of the Longbridge Roundabout;
- 1/074 - consists of 7m² of footway and verge south-east of the Longbridge Roundabout;
- 1/093 - consists of 88m² of scrubland and woodland north of London Road, A23
- 1/095 and 1/096 - the plots consist of 9 and 69m² of wooded area south east of the Longbridge Roundabout;
- 1/164 - consists of 4282m² of public road and verges on London Road, A23 and woodland at Riverside Garden Park;
- 1/165 and 1/166 – both plots consist of 2326 and 1342m² of woodland at Riverside Garden Park;
- 1/193 - consists of 3761m² of scrubland, slip road, verges and public road on Airport Way, A23 and London Road, A23;
- 1/201 - consists of 1446m² of scrubland north of London Road, A23;
- 1/211 - consists of 12m² of scrubland north of Airport Way, A23;
- 1/212 - consists of 5m² of woodland at Riverside Garden Park;
- 1/216 - consists of 36m² of scrubland north of Airport Way, A23;
- 1/226 and 1/226A – both plots consist of 5 and 85m² of woodland north of Airport Way, A23 and south-west of The Crescent; and
- 1/227 - consists of 70m² of woodland south of Racecourse Way.

- 21.6.97. In respect of the above plots, the Applicant is seeking the permanent acquisition of land and rights in connection with Work Nos. 36, 37 and 40 and 46, and minor works, including protective works, access or utility diversions.
- 21.6.98. In its RR as landowner [RR-3735] RBBC raised concern regarding aspects of the Proposed Development which would impact their land ownership at Riverside Gardens Park and Church Meadows and the extent, condition, and usage restrictions of the replacement land to be offered by the Applicant. In its WR [REP1-094], similar concerns were raised, and reference was also made to potential effects on the proposed Horley Strategic Business Park.
- 21.6.99. Similar concerns were also raised in the SCC, MVDC, RBBC and Tandridge District Council Local Impact Report [REP1-097].
- 21.6.100. At D7 the Applicant confirmed that whilst HoTs had been issued to RBBC [REP7-065], it had been unable to get a response in respect of substantive matters. This matter was discussed at CAH2 [EV19-003 and EV19-005] where we asked the Applicant if any further contact had been made with RBBC. As no response had been forthcoming, the ExA requested that, if possible, RBBC could contact the Applicant to progress matters in a timely fashion.
- 21.6.101. In the Applicant's Closing Submission [REP9-112], it confirmed that following CAH2, RBBC had made a substantive response to the Applicant and discussions were progressing towards agreement on all matters, apart from land value.

ExA's Conclusion on Reigate and Banstead Borough Council

- 21.6.102. The issue of Replacement Open Space and vesting concerns is discussed in detail elsewhere within this Chapter and in ES Chapter 17 – Socioeconomics [APP-042] and is not repeated here.

- 21.6.103. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA also considers that the rDCO includes adequate compensation provisions and blight claim opportunities. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

SURREY COUNTY COUNCIL

- 21.6.104. SCC, as landowner, has an interest in the following plots:

- 1/009 - consists of 53m² of verge north-west of Longbridge Roundabout;
- 1/010 and 1/031 – both plots consist of 1838 and 1648m² of public road, verges and footways on Reigate Road, A217;
- 1/013 and 1/013A - both plots consist of 5222 and 3849m² of agricultural land, hedgerows, scrubland and accessway north of the Longbridge Roundabout;
- 1/019 - consists of 527m² of public road, verges and footway on Brighton Road, A230 and Woodroyd Avenue;
- 1/024 - consists of 22m² of verge west of Reigate Road, A217;
- 1/027 - consists of 56m² of scrubland and accessway north-west of the Longbridge Roundabout;
- 1/032 - consists of 93m² of scrubland and verge north of the Longbridge Roundabout;
- 1/035 - consists of 50m² of public road, Brighton Road, A23;
- 1/038 and 1/039 – both plots consist of 15 and 7m² of river, bed and banks of the River Mole and woodland south of Brighton Road, A23;
- 1/042 - consists of 30m² of verge, scrubland and access road west of the Longbridge Roundabout;
- 1/046 and 1/047 - both plots consist of 36 and 31m² of woodland east of the Longbridge Roundabout;
- 1/049 - consists of 261m² of public road and footway on Brighton Road, A23;
- 1/053 - consists of 90m² of river, bed and banks of the River Mole;
- 1/056 - consists of 3460m² of public roads, verges and footways on the A217 and the Longbridge Roundabout;
- 1/073 - consists of 4m² of scrubland south-west of the Longbridge Roundabout;
- 4/462 - consists of 10m² of verge and hedgerow north of M23 and public footpaths UF001/367/10, UF001/367/20 and UF001/368/30;
- 4/468 - consists of 23383m² of grassland north of Airport Way, A23;
- 4/470 - consists of 19902 m² of verge, grassland and shrubbery north of Airport Way, A23; and
- 4/495 - consists of 165m² of woodland and shrubbery south of Airport Way, A23 and public footpath CRA/360Sy/1.

- 21.6.105. In respect of the above plots, the Applicant is seeking the permanent acquisition of land and rights in connection with Work Nos. 35, 37 and 40.

- 21.6.106. The three areas of land about which the Applicant and SCC have been negotiating include:

- land owned by SCC as the local highway authority;
- land at Gatwick Dairy Farm; and
- Land at Bayhorne Farm.

- 21.6.107. At the close of the Examination, both parties confirmed that HoTs had been agreed in principle regarding Gatwick Dairy Farm [REP9-112] and [REP9-170] and in relation to the land owned by SCC as highway authority, the concerns raised had been resolved [REP9-112].
- 21.6.108. Turning to Bayhorne Farm, the Applicant stated that the plots in relation to this land would be required to deliver the surface access works. Part of the land in question would also be used for a temporary construction compound and may also form a section of the realigned highway and provide for the associated highway infrastructure. As the highway would be adopted by NH, the Applicant confirmed it required sufficient land and land rights to deliver the Proposed Development and provide for NH adoption [REP9-110].
- 21.6.109. SCC's objection in respect to Bayhorne Farm related to the fact that the land in question comprised approximately 31ha of land allocated as a Strategic Employment Area, named Horley Strategic Business Park (HSBP), under Policy HOR9 of Reigate and Banstead Development Management Plan. SCC is the majority landowner with a freehold interest in approximately 19ha of the land. The rest of the site consists of a land parcel adjoining Balcombe Road which is in private ownership with Columbia Threadneedle, and a further land parcel to the west and abutting the railway line in the ownership of RBBC.
- 21.6.110. SCC raised objection to the acquisition of land in relation to Work No. 35 as the main access in and out of Bayhorne Farm for any development on the site would need to be from Airport Way [REP1-096]. Without these access arrangements, SCC stated that the site could not come forward for employment-related development. Should the works be consented, SCC also stated that the works would permanently alter the highway arrangements to the South Terminal Roundabout (STR) and to SCC's land. Policy HOR9 also sets out requirements for access, movement, and accessibility, with one of the principal requirements being that a new dedicated access should be taken from the site onto Airport Way via a fourth leg from STR [REP1-096].
- 21.6.111. The permanent arrangements proposed on this part of SCC's land would include:
- the realignment of the existing highway layout;
 - an access road from Balcombe Road into the land to be permanently acquired; and
 - an attenuation pond to be used for highway drainage purposes.
- 21.6.112. The matter of Bayhorne Farm was also discussed at CAH2 [EV19-003] and [EV19-005]. The Legal Partnership Authorities (LePAs), which includes SCC, stated one of the remaining issues was the need to ensure that the temporary access required by the Applicant for its works could be constructed without prejudicing the delivery of a permanent access required for the HSBP. It was therefore contended by the LePAs that a joined-up planning approach was required to facilitate access to the allocated site particularly due to the importance of the junction on the strategic highway network. Although it was accepted that the junction may not remain part of the strategic road network post-project implementation, it was noted that successive schemes of works could cause significant disruption to the same location. As such, the Applicant should seek to avoid this. It was further stated that a solution allowing the Applicant's temporary access to be modified into the permanent access for the allocated site had been suggested, however this approach would require more detail and coordination between the parties.

- 21.6.113. In response, the Applicant confirmed [REP8-105] it was not their responsibility to design a highways access for a development outside the Proposed Development. In the normal way, it would design to provide for the highways impact that results from its own scheme. If a developer did come forward on the allocated site in due course, then that development would need to consider traffic conditions, the highways that are in place because of the Proposed Development and then mitigate accordingly. It was concluded that it is not for the Applicant to design an access that anticipates a development on an allocated site that has yet to come forward.
- 21.6.114. Turning to the matter of the proposed attenuation pond location, the LePAs position at CAH2 [EV19-003 and EV19-005] remained that the location of the pond would sterilise a part of the site that could lend itself to alternative uses and would frustrate SCC's ability to bring this part of the site forward later. It was also stated that there appeared to have been no consultation on alternative locations proposed for the highway drainage as an alternative to Bayhorne Farm. Therefore, the LePAs remained of the view that the Applicant had not considered alternatives, despite the site's allocation for employment uses.
- 21.6.115. The Applicant commented [EV19-003 and EV19-005] that the attenuation proposals across the Proposed Development, including the pond in question at STR, had been developed in consultation with both SCC and West Sussex County Council (WSCC) Lead Local Flood Authority teams, as well as being developed in consultation with NH as the future asset owner.
- 21.6.116. In response to our letter under Rule 17, dated 20 August 2024 [PD-030], NH confirmed [REP10-030] that it was content with the temporary access requested by the Applicant in respect of the contractor compound. However, such agreement in respect of the temporary access would be conditional on a commitment by the Applicant that such access would be removed following the construction period.
- 21.6.117. In the Rule 17 letter [PD-030], we also asked the Applicant and SCC what consideration had been given to the drafting of PP for SCC regarding the outstanding objections in respect of Bayhorne Farm. In response, SCC [REP10-033] commented that its preferred position would be that SCC's land at Bayhorne Farm would be removed from the dDCO in its entirety to enable the future delivery and development of HSBP. However, if the ExA was minded to recommend to the SoS SCC's land at Bayhorne Farm remained in the dDCO, then SCC considered that PP would be appropriate, in order to protect their interests.
- 21.6.118. A copy of the drafting of the proposed PP was included in the SCC submission at [REP10-033]. SCC acknowledged that the Applicant had confirmed it was willing to continue discussions after the close of the Examination and that it would provide an update to the ExA prior to the submission of a recommendation to the SoS.
- 21.6.119. In response to the Rule 17 question, the Applicant [REP10-023] considered that adequate protection would be offered to SCC through the dDCO and associated control documents. Specifically, that paragraph 4.4.7 of the CoCP [REP8-024] states "*where any landowner's assets (including access to their property) will be affected by construction works appropriate accommodation works...will be undertaken in advance of the main construction works affecting their property*". The Applicant considered that this would ensure it would take measures to protect SCC's assets and access during the construction phase. If SCC is also progressing with development at the same time, the Applicant would also be required to undertake accommodation works where any assets could be affected.

- 21.6.120. Additionally, the Applicant further noted that were it to exercise CA or TP powers, it would be required to pay compensation under Article 27 (compulsory acquisition of land), Article 28 (compulsory acquisition of rights and imposition of restrictive covenants), Article 33 (modification of the 1965 Act) and Article 37 (temporary use of land for carrying out the authorised development) of the dDCO [REP10-023].
- 21.6.121. In the SCC Closing Statement [REP9-170], SCC also requested that the Applicant delivered a "*positive passive provision*" for a permanent access from the STR to the proposed site for the HSBP. This issue was also discussed by the Applicant during CAH2 [EV19-003- EV19-005] and it reiterated the point that it is not for the Applicant to design an access that anticipates a development on an allocated site that has yet to come forward. If development does come forward, the Applicant considered that SCC would need to develop any designs with NH and obtain its approval for any permanent works as well as the other consents required for the delivery of the HSBP.

ExA's Conclusion on Surrey County Council

- 21.6.122. The ExA is mindful of the potential benefit the delivery of the HSBP could bring to both the immediate locality and further afield. Whilst recognising that the land in question forms part of an allocated site, at the close of the Examination the ExA was not aware that a planning application for the site had been submitted.
- 21.6.123. In this respect, we agree with the position of the Applicant that, given the lack of technical information available, it would not be appropriate or feasible for the Applicant to design and develop a permanent fourth spur to the STR. Additionally, NH is clear in that any access to the temporary construction compound required by the Applicant would be for a temporary period only and that any spur is to be removed.
- 21.6.124. In respect of the proposed attenuation pond, it is evident that the Applicant had considered alternative locations suggested by SCC. However, the ExA is satisfied that given the technical constraints, the proposed location is the most appropriate location.
- 21.6.125. Regarding the request by SCC for the inclusion of PP, given the existing controls within the rDCO, the ExA is satisfied that the interests of SCC are adequately protected without introduction of bespoke PP.
- 21.6.126. We therefore consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA therefore considers that the approach sought by the Applicant is a reasonable balance between public benefit and competing factors and interests. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so.

WEST SUSSEX COUNTY COUNCIL AND SURREY COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITIES

- 21.6.127. The ExA is aware that at the close of the Examination, concern remained in respect of the treatment of land currently vested in WSCC and SCC as local highway authorities (LHAs). It is intended that this land would remain part of the maintainable highway on completion of any construction works required for the purposes of the

Proposed Development. However, the LHAs note the vested land may potentially be transferred to a different highway authority, including NH [REP9-151].

- 21.6.128. The LHAs also noted that in respect of land vested in NH, the Applicant has proposed PPs such that it may not exercise the powers of CA over land forming part of the Strategic Road Network (SRN) without the consent of NH. No equivalent or similar PP are proposed with respect to the LHAs and land vested in them as part of the local road network.
- 21.6.129. At [REP8-164], the LePAs stated that the solution to this issue is for all land plots which are currently vested in a local highway authority and which would, post-construction, be vested in a highway authority, but which may be a different highway authority, to be dealt with as 'green' land, where only temporary possession is taken and compulsory acquisition is limited to rights only. Alternatively, the LePAs would accept the inclusion of PPs, similar to those in favour of NH, to be included in the rDCO.
- 21.6.130. Following CAH2 [EV19-003 and EV19-005], the Applicant confirmed they had further discussed this issue with the LePAs [REP8-110]. The Applicant confirmed that the LHA's could not be forced to adopt land and take on the associated liabilities and statutory duties. The Applicant confirmed that this could not happen under the dDCO as drafted as the LHAs would be protected by Article 21 of the dDCO. Article 21 would prevent the Applicant from commencing any works in the local highway until the LHA has entered into an Article 21 Agreement. Article 21(2)(c) explicitly includes provision for the matters included within a section 38 agreement (power of highway authorities to adopt by agreement). Therefore, the Applicant confirmed that any works on highway land which may transfer to a LHA would be subject to an Article 21 agreement as it would tie into the local highway. This effectively would give the LHAs the veto it sought. Also, a limitation on the Applicant's ability to exercise its CA powers would not provide any additional protection to the LHAs in this context.

ExA's Conclusion on West Sussex County Council and Surrey County Council, as Local Highway Authorities

- 21.6.131. Whilst the LePAs have not been specific in which plots these concerns relate to, the ExA understands the concern in respect of the fact that NH may gain some of their existing land if it becomes trunk road as opposed to a local highway.
- 21.6.132. However, we are satisfied that adequate protection exists for the LHAs given the drafting of Article 21 in the dDCO. In this instance, we are content that established systems and agreements for the Applicant to follow when carrying out this type of works exist which would provide the LHAs with adequate protection. As such, we do not consider a bespoke approach is necessary.
- 21.6.133. We therefore consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development. The ExA considers that the approach sought by the Applicant is a reasonable balance between public benefit and the competing factors and interests that exist in terms of APs.

21.7. STATUTORY UNDERTAKERS

INTRODUCTION

21.7.1. This section of the Chapter considers representations made by SU under s127 and s138 of the PA2008, including all representations made at CAHs and OFHs. The ExA has only identified the points considered to be important and relevant when reporting on the representations and the Applicant's responses.

PROTECTIVE PROVISIONS

21.7.2. The progress with PP was charted within the regular submissions of the Land Rights Tracker. The final Land Rights Tracker was submitted at D7 [REP7-065] and a Compulsory Acquisition and Temporary Possession – Status of Negotiations document was submitted at D9 [REP9-110], which in respect of PP sets out the nature of the undertaking, the land rights affected, whether s127 and/ or s138 would be engaged and the status of the discussions with any impediments envisaged.

21.7.3. Agreement was reached with, or no objection was received from, the following SU:

- Openreach (British Telecommunications PLC); s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Cornerstone Telecommunications Infrastructure Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- EE Limited; s127 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- GTC Pipelines Limited; s127 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 1;
- Hutchinson 3G Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Lumen Technologies Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Mobile Broadband Network Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Sutton and East Surrey Water PLC; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 1;
- Telefonica O2 UK Limited; s127 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Virgin Media Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2;
- Vodafone Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2; and

- Zayo Group UK Limited; s127 and s138 would be engaged, no objection was submitted, PPs for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2.

21.7.4. For those SU where the wording of PP has been fully agreed, the ExA is content with the wording and has made no changes to the ExA's rDCO.

BESPOKE PROTECTIVE PROVISIONS

21.7.5. At the close of the Examination agreement was reached on bespoke PP and/or a protective side agreement with the following SU:

- British Pipeline Agency/ Walton-Gatwick Pipeline Limited (BPA); initial concerns received, engagement during the Examination was entered into, BPA confirmed the withdrawal of the outstanding objection on 31 July 2024 [REP8-138] and that an agreement had been entered into, no PP were considered necessary by either party;
- South Eastern Power Networks plc (with UK Power Networks Services (South East) Limited as agent); no objection was submitted, a protective side agreement has been entered into, no PPs were considered necessary by either party;
- Network Rail Infrastructure Limited (NR); initial dialogue indicated that the NR standard form of PP should be included within the dDCO as the initial draft of the dDCO did not include any PP in favour of NR, a Framework Agreement was agreed between both parties and bespoke PP for the benefit of NR have been fully agreed and included in the rDCO, at Schedule 9, Part 4; and
- Southern Gas Networks plc (SGN); initial objection received, dialogue between parties undertaken during the Examination, SGN confirmed at D10 that agreement had been reached and the objection had been removed [REP10-032], bespoke PPs for the benefit of SGN are include in the rDCO at Schedule 9, Part 1.

21.7.6. For those SU where the wording of PP have been agreed no change has been made to the Applicant's final dDCO.

NATIONAL HIGHWAYS

21.7.7. At D10, NH also confirmed that a Framework Agreement [REP10-017] had been entered into. As such, NH confirmed the withdrawal of its objection in relation to concerns for the potential for adverse effects on the safe and efficient operation of the SRN [REP10-017].

21.7.8. In the Applicant's Closing Submission [REP9-112] and Compulsory Acquisition and Temporary Possession – Status of Negotiations [REP9-110], the Applicant stated that agreement had been reached with NH apart from the issue relating to an indemnity cap.

21.7.9. Despite confirmation of the withdrawal of objection, NH confirmed that no further dialogue in respect of the outstanding issue relating to the indemnity cap had taken place since D9 [REP10-029].

21.7.10. In their Closing Statement [REP9-160] NH stated that their objection to the Applicant's position to provide a capped indemnity of either 30% or £100 million, whichever is higher, concerning damages, losses and costs arising from its own actions remained.

- 21.7.11. NH provided suggested wording in respect of paragraph 18 of Schedule 9, Part 3 [REP9-160] as the current wording would in effect pass private sector burden onto the public purse. As such, NH stated that the value of indemnity should be uncapped. Section 1 of [REP9-160] also provides examples of other made DCOs which have included similar uncapped indemnities.
- 21.7.12. The Applicant's position in respect of this issue at the end of the Examination was that an uncapped indemnity, particularly one with the extremely broad scope of the NH proposed wording, would be unduly burdensome and go beyond what is market standard practice in similar project finance schemes [REP9-112].
- 21.7.13. Additionally, the Applicant confirmed that the proposed indemnity cap also sits alongside provisions that require the Applicant to procure a bond in favour of NH, which would provide significant additional security against any failure by the Applicant to complete the highway improvement and/ or other damages and losses in respect of which the bond can be drawn down. The Applicant further stated that this bond should provide NH with assured recourse if it suffers relevant loss, damages, or expenditure and this should therefore offer sufficient comfort alongside the additional, capped indemnity [REP9-112].
- 21.7.14. NH stated that the provision of a bond is ordinarily, as the precedents quoted demonstrate, backed up by an indemnity, and the indemnity itself applies more broadly to ensure that damages, losses, and costs arising from the Applicant's own actions would be correctly accounted for by the Applicant. NH did not consider it acceptable for the Applicant to propose nationally significant infrastructure works on the SRN, and then seek to avoid full liability for costs that arise. As such, at the close of the Examination, NH confirmed they were unable to fully withdraw their objection under s127 of the PA2008 [REP9-160] in respect of the indemnity issue.

ExA's Conclusion on National Highways

- 21.7.15. Whilst the ExA notes the progress made between both parties, it finds both the bond and uncapped indemnity to be necessary to avoid serious detriment to the carrying on of the undertaking under s127 of the PA2008. In this instance, the ExA agrees that it is not appropriate for a public sector agency to potentially fund a private sector burden. As such, in the rDCO the ExA has included the wording as suggested by NH in respect of paragraph 18 of Schedule 9, Part 3.

ESSO PETROLEUM COMPANY LIMITED

- 21.7.16. The Applicant attempted to liaise with Esso Petroleum Company Limited (EPCL) throughout the Examination but advised limited response had been received [REP9-110]. It is noted that both s127 and s138 would be engaged and at the close of the Examination EPCL had not objected to any powers in the dDCO.
- 21.7.17. The Applicant has included bespoke PP in favour of EPCL in Schedule 9, Part 7 [REP10-004] and consider that these would adequately protect EPCL undertakings.

ExA's Conclusion on Esso Petroleum Company Limited

- 21.7.18. Whilst an agreement had not been reached between parties by the close of the Examination, the ExA considers that the Applicant's wording in its final dDCO is adequate.
- 21.7.19. The ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138, and that the powers sought could

be exercised without serious detriment to the carrying out of EPCL's undertaking, and are consistent with s127, on the basis of the PP that are reported above and included in rDCO Schedule 9, Part 7.

BESPOKE PROTECTIVE PROVISIONS/ PROTECTIVE SIDE AGREEMENT STILL UNDER NEGOTIATION

- 21.7.20. For those SU where bespoke PP are required, but which were not agreed by the close of the Examination, the ExA requested, at CAH2, from both parties a set of the Applicant's PP marked up with areas of disagreement, including alternative precise wording [EV19-003 and EV19-005].

THAMES WATER UTILITIES LIMITED

- 21.7.21. At the close of the Examination, the only SU requesting bespoke wording where agreement had not been reached was Thames Water Utilities Limited (TWUL) and TWUL submitted their preferred wording at [REP9-358].
- 21.7.22. The two outstanding matters not agreed on are:
- the provision of a bond; and
 - indemnities.
- 21.7.23. TWUL [REP9-358] stated that a bond would be required prior to any works being undertaken on or in relation to its network. TWUL further stated that this provision of a bond is a common requirement of many SU. As such TWUL did not consider that such a request was unreasonable. In addition, if the Applicant failed to fully complete any necessary works or to recompensate TWUL for carrying them out on the Applicant's behalf, TWUL would require the bond to be able to carry out these works and/ or reimburse its costs of doing so.
- 21.7.24. In respect of the need for an indemnity cap, TWUL stated [REP9-358] that any losses suffered would not have occurred if not for the Applicant's Proposed Development. As such, the Applicant should indemnify TWUL for losses. If damage is caused in excess of the cap, TWUL would be required to subsidise this itself, with these costs ultimately being borne by bill payers.
- 21.7.25. In respect of the suggested value of the indemnity cap, TWUL stated that they could face extensive costs running into the millions, which would be likely to exceed the cap. Furthermore, TWUL noted that currently there is no allowance for future inflation in the cap [REP9-358]. Accordingly, TWUL requested that the cap should be £20 million and that this figure should apply to each discrete event which impacts the TWUL network.
- 21.7.26. At D10 the Applicant [REP10-001], stated that it was maintaining its stance as outlined in its Closing Submissions [REP9-112] as TWUL had failed to provide adequate justification or necessity for the inclusion of a bond. The Applicant did however acknowledge that the drafting of the bond provisions by TWUL had improved from the earlier version shared with the Applicant. Despite this the Applicant considered it remained unacceptably uncertain in application and it therefore maintained its objection to the inclusion of such a bond on the basis that it could cause delay in carrying out the authorised development where there is or may be an interface with TWUL apparatus.
- 21.7.27. In respect of the indemnity, the Applicant [REP10-001] stated that they would be amenable to the proposed quantum of £20 million and that this indemnity cap would

rise with inflation. However, it required, there to be an overarching cap, at potentially a higher level than the suggested figure of £20 million, to ensure that indemnity is not cumulatively open-ended. An uncapped indemnity would also pose difficulties to the Applicant in terms of its corporate risk and insurance requirements [REP9-112].

ExA's Conclusion on Thames Water Utilities Limited

- 21.7.28. We find both the bond and a capped indemnity of £20 million per event, which both rises with inflation and would be applicable to each potential event, as requested by TWUL, to be necessary to avoid serious detriment to the carrying on of the undertaking. As such, in the rDCO the ExA has included the PP wording as suggested by TWUL at [REP9-358] in respect of Schedule 9, Part 6.

ExA's OVERALL CONCLUSION ON STATUTORY UNDERTAKERS

- 21.7.29. With regards to those SU whose rights and apparatus would be interfered with by delivery of the Proposed Development, but which did not make representations, Schedule 15 of the Applicant's dDCO Part 1 includes provisions for the protection of all electricity, gas, water and sewerage undertakers and Part 2 provides protection for operators of electronic communication code networks. As representations have not been made the provisions of s127 are not engaged.
- 21.7.30. As different matters formed the basis of outstanding matters regarding bespoke PPs, for NH, TWUL and EPCL, the ExA has provided its reasoning and concluded its recommendations under their relevant headings above.
- 21.7.31. Based on the evidence before the ExA, we are satisfied that the relevant PP contained within Schedule 9 of the rDCO would ensure that an appropriate degree of protection would be given to all affected SU, such that there would be no serious detriment to the carrying out of their undertakings. The ExA is satisfied that the interference with apparatus and extinguishment of rights would be necessary and proportionate for the purposes of carrying out the Proposed Development.
- 21.7.32. Notwithstanding the above, the ExA is disappointed that the Applicant and certain SU could not reach agreement within the statutory timescale for examination.

21.8. CROWN LAND

- 21.8.1. The BoR [REP9-011 and REP9-013] and the Crown Land Plans [REP9-016] identify that various plots comprise Crown land. The BoR identifies that in respect of these plots, the Applicant is seeking either TP, the acquisition of new rights, the imposition of restrictive covenants or freehold acquisition. Additionally, Article 44 (Crown rights) of the dDCO [REP10-004] includes provision for the acquisition of Crown interests.
- 21.8.2. Section 135 of the PA2008 provides that a DCO may authorise, with the consent of the Crown, the CA of an interest held in Crown land which, for the time being, is held otherwise than by or on behalf of the Crown, and the appropriate Crown authority consents to the acquisition. Section 227 of the PA2008 defines 'Crown land' as any land in which there is a Crown interest.
- 21.8.3. The Applicant confirmed negotiations with the relevant Crown authorities was ongoing [REP9-112] and we asked for updates at both CAH1 [EV14-001 and EV14-002] and CAH2 [EV19-003 and EV19-005]. At CAH1, the Applicant confirmed that it was confident that all relevant Crown interest had been captured in the BoR and that introductory letters, including draft s135 consent letters, had been sent to the relevant Crown bodies in August 2023. The Applicant had also been in regular

contact with all Crown land interests, and discussions were progressing toward s135 consent letters being signed and submitted prior to the close of the Examination [REP4-034].

- 21.8.4. The Applicant also entered into a MoU with the Crown land interests and the completion of the MoU was expected to provide sufficient comfort to enable the Crown land interests to provide s135 consent. The Applicant saw no impediment to the s135 consents being granted by the Crown land interests in relation to the Proposed Development [REP4-034]. The Applicant was also asked during CAH1 [EV14-001 and EV14-002] to explain the implications for the Proposed Development if s135 was not obtained by the close of the Examination. The Applicant confirmed that it expected some form of agreement would be entered into prior to the decision date but that they would further expand on this in writing.
- 21.8.5. At [REP4-038] the Applicant confirmed that the MoU would provide comfort that the Crown's obligations, statutory duties, and operations would not be materially impacted by the Proposed Development, and appropriate accommodations would be put in place. However, if consent was not confirmed by the Crown prior to the close of the Examination, the Applicant would continue to pursue such consent in the subsequent Recommendation period to enable it to be reported as confirmed prior to any decision on the Proposed Development being made. It also confirmed that it had taken steps to reduce the impact on Crown interests by excluding certain buildings and areas from the CA powers.
- 21.8.6. Similar questions were asked by the ExA at CAH2 [EV19-003 and EV19-005] as we were aware s135 consent had not been received from any Crown interests. The Applicant explained that [REP8-105], as far as the Office for National Statistics (ONS) was concerned, the MoU had been agreed and the s135 was being finalised, noting that there were no issues in the s135. With the SoS for Transport, several meetings have been held and the s135 was being finalised. In terms of the Home Office, a draft MoU had been shared and the Home Office had confirmed that they were reviewing, and the Applicant hoped the MoU would be signed imminently.
- 21.8.7. At D9, the ONS confirmed in writing [REP9-165] that Crown land consent under s135 (1) and (2) in relation to the Proposed Development had been granted. At D10, the SoS for Transport also confirmed in writing [REP10-025] that Crown land consent under s135 (1) and (2) in relation to the Proposed Development had been granted. Additionally, the SoS also agreed with the wording of Article 44 of the dDCO.
- 21.8.8. In the Applicant's Compulsory Acquisition and Temporary Possession – Status of Negotiations submitted at D9 [REP9-110], the Applicant commented that negotiations were under way with the above three Crown authorities and that s135 was anticipated prior to the close of the Examination.
- 21.8.9. At the close of the Examination, s135 consent had not been received from the following Crown authorities:
- SoS for Levelling Up, Housing and Communities;
 - HM Revenue and Customs; and
 - UK Visas and Immigration.

ExA's Conclusion on Crown Land

- 21.8.10. At the close of the Examination, Crown consent had not been received from all the relevant Crown authorities. In the absence of consents from the relevant Crown

authorities, the ExA concludes that the Order cannot authorise the CA or TP of those plots of land and/or interests which are Crown land because the requirements in s135(1) and s135(2) of PA2008 have not been met. However, the ExA is not aware of any impediments to the granting of Crown consent by the relevant Crown authorities.

- 21.8.11. The SoS would therefore need to ensure that Crown consents are forthcoming from the relevant Crown authorities prior to any grant of development consent and the recommendation to the SoS to grant development consent is subject to Crown consents being forthcoming.

21.9. SPECIAL CATEGORY LAND

- 21.9.1. As noted above, the Applicant is seeking CA powers over special category land and rights as shown on the Special Category Land Plans [REP9-018] and also contained within Schedule 10 of the dDCO [REP10-004] and the BoR [REP9-113, Part 5].

- 21.9.2. The Applicant confirmed in the Note on the Acquisition of Special Category Land and Provision of Replacement Open Space [REP9-104] that the plots of special category land to be permanently acquired are all required for the highway improvement works and therefore this satisfies section 131(5)(a) of the PA2008 as it is land *“required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway”*.

- 21.9.3. The Applicant further stated that the giving of other land in exchange is considered unnecessary, thereby satisfying section 131(5)(b) as the plots are required to facilitate the highway improvement works. Once these works are completed, the widened and improved highways would be adopted by the relevant highway authorities, namely NH, SCC or WSCC. The entities would also be vested with the requisite land interests. Given the small amount of designated open space currently in highway authority ownership, the Applicant considered landowners would not suffer a net loss in land under their control.

- 21.9.4. The JLAs confirmed [REP8-164] that none wished to be vested with the replacement land and they would be satisfied if the land is to be vested, or where already owned by the Applicant, remain vested in, the Applicant provided that the Applicant laid out and maintained suitable replacement open space for the benefit of the public and provided a commitment as regards maintenance of this open space.

ExA’s Conclusion on Special Category Land

- 21.9.5. Paragraph 2.2.7 of the Note on the Acquisition of Special Category Land and Provision of Replacement Open Space [REP9-104] confirmed that Article 40 of the dDCO would continue to secure the laying out of replacement open space by the Applicant. It was also confirmed that the land in question would not qualify as ‘replacement land’ under s131(4) as it is not to be vested in the entities from which the Applicant would be acquiring special category land. As such, we agree that the replacement open space is considered a suitable replacement for the special category land to be acquired for the benefit of the public by the Applicant.
- 21.9.6. In respect of rights proposed to be acquired over the western and southern edges of Church Meadows, land south of the A23 Brighton Road and along the southern edge of Riverside Garden Park, s132(4b) of the PA2008 applies. This provides an

exception to SPP where open space is "*being acquired for a temporary (although possibly long-lived) purpose*".

- 21.9.7. It is stated by the Applicant that the rights would solely facilitate access for periodic inspections and, where necessary, remedial maintenance work to the pedestrian bridge. The infrequency of the exercise of these rights, coupled with the limited disturbance to Church Meadows during times of their exercise, would render the parcel of land in question no less advantageous to those holding an interest in the land and the public.
- 21.9.8. We find no reason to disagree that, given the likely infrequency of the need to exercise the rights, that the CA of the rights would not result in the land being any less advantageous to the users than the current situation.
- 21.9.9. Additionally, we also agree that whilst s131(4) of the PA2008 applied at the time of submission of the application, for the reasons discussed above, this is no longer applicable.
- 21.9.10. However, the application of s132(3) and 132(4B) to the proposed acquisition of rights over open space land remains unchanged. The plots of open space land and replacement open space forming part of the application, including their size and the design proposals for the replacement open space, also remain unchanged. The only change is the application of s131(5) instead of s131(4) to open space land proposed to be permanently acquired.
- 21.9.11. In respect of the approach to securing the provision of replacement open space, we are satisfied that given the drafting of Article 40 of the dDCO [REP10-004] this would mean that the Applicant could not acquire any special category land until it had the means to provide all identified replacement open space and has submitted and had approved a plan setting out the timetable for doing so to Crawley Borough Council (CBC), in consultation with RBBC and MVDC.
- 21.9.12. Whilst we accept that this is not standard drafting, we are satisfied that it is both necessary and appropriate in this situation as the Applicant confirmed that this approach was required as the special category land to be acquired would be essential for the carrying out of the highway works and its acquisition cannot await the completion of those works. However, the construction of the highway works would also utilise land that would eventually form part of the replacement open space for proposed maintenance and footpath accesses to the replacement open space. It was therefore not possible to establish and provide access to the replacement open space in advance of the highway works. In particular, the northern part of car park B would be required as a construction compound for the highway works, and the rest of this area would be required for use as a construction access to carry out works to the carriageway in the vicinity of the Airport Way railway bridge.
- 21.9.13. We note that s131 of the PA2008 indicates that replacement land need not be laid out before special category land can be acquired pursuant to a DCO. Section 131 also allows for an order to authorise the CA of such land without the need for SPP provided that the SoS is satisfied that, inter alia, "*replacement land has been or will be given in exchange for the order land*".
- 21.9.14. Whilst the Applicant accepts that it is not providing formal replacement land for the purpose of s131(4) due to the JLAs not wishing to be vested with such land, it considers the laying out of replacement open space partly underpins the conclusion

that the “*giving in exchange of other land is unnecessary for the purpose of s131(5) is applicable*”.

21.9.15. We are therefore satisfied, that as far as appropriate, the tests of s132 of the PA2008 in relation to special category land are satisfied.

21.10. THE EXAMINING AUTHORITY’S CONSIDERATION OF THE CASE FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION

21.10.1. The ExA’s approach to the question of whether and what CA powers it should recommend to the SoS to grant has been to apply the relevant sections of the PA2008, notably s122 and s123, the Human Rights Act 1998 and the Equality Act 2010 and to also have regard to the CA Guidance. In the light of the representations received and the evidence submitted, it is also necessary to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

21.10.2. A number of general considerations have also been addressed in the light of the CA Guidance, namely;

- whether all reasonable alternatives to CA have been explored;
- whether the Applicant has a clear idea how it intends to use the land and has demonstrated funds would be available;
- whether the proposed interference with the rights of those with an interest in land would be for a legitimate purpose and that it is necessary and proportionate; and
- whether there would be any impediment to obtaining any operational or other consents.

Whether all Reasonable Alternatives to Compulsory Acquisition Have Been Explored

21.10.3. Paragraph 8 of the CA Guidance requires that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA, including modifications to the scheme, have been explored.

21.10.4. The Applicant’s SoR set out the stages of the Proposed Development process, which demonstrated the options, identification, and selection process undertaken by the Applicant [REP9-009]. Sections 6.2.13 to 6.2.20 of ES Chapter 3, Alternatives Considered provides a summary of the alternatives considered by the Applicant during the optioneering and design process [APP-028].

21.10.5. The ExA has reported on its finding regarding the alternatives considered in Section 4.6 of this Report. We do not repeat that here, only to report that we are satisfied that the Applicant has adequately considered alternatives to the Proposed Development and that there are no matters relating to the consideration of alternatives which would weigh for or against the Order being made.

21.10.6. We now turn to the question of alternatives which arose in the specific context of land rights. Sections 6.2.13 to 6.2.20 of the SoR [REP9-009] detail the alternative options considered by the Applicant in respect of the Proposed Development and Sections 6.2.21 to 6.2.23 of the SoR [REP9-009] detail alternatives to CA. The Applicant confirmed that they own or control most of the land required for the Proposed Development and aimed to acquire all land and rights by voluntary

agreement. It was also confirmed that the Applicant is applying for TP powers over the full extent of the Order land.

- 21.10.7. Details of negotiations were provided initially in Appendix B of the SoR [APP-010] and updated throughout the Examination in several iterations of the Land Rights Tracker [PDLA-010], [REP3-064], [REP5-033] and [REP7-065]. The final update was provided in the Compulsory Acquisition and Temporary Possession – Status of Negotiations document at D9 [REP9-110].
- 21.10.8. The Applicant stated that it is progressing with acquisition by negotiation as an alternative to CA and TP it has sought to reach voluntary agreements with all APs. Notwithstanding its preference to acquire all land by agreement, the Applicant confirmed that it would need to seek to acquire land and rights compulsorily through the dDCO in circumstances where the voluntary acquisition of land or rights is ultimately unsuccessful (Para 6.2.23 of [REP9-009]).
- 21.10.9. At D9 the Applicant provided a final update on the land negotiations in August 2024 and this is shown below [REP9-110].

Table 21.1: Status of Negotiations

Agreements Category	Total Number
Section 1: Acquisition concluded or Option Agreement signed and exchanged	2
Section 2: Legal agreement being finalised or agreed. Exchange expected shortly	2
Section 3: Legal agreement progressing, no issues to note	4
Section 4: Heads of Terms and/or Memorandum of Understanding agreed	1
Section 5: Heads of terms and/or Memorandum of Understand in negotiation	9
Section 6: Affected Party not engaging with the Applicant	4
Section 7: Agreement not required	1
Section 8: Crown Land Consent	5

- 21.10.10. The above table does not include details of negotiations with SU as these have been reported in earlier paragraphs.
- 21.10.11. We acknowledge that there are few alternatives available to the Applicant and we are satisfied that the Applicant has explored all reasonable alternatives to CA. As such, the ExA is of the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.

Diligent Inquiry and Clarity on the Use of the Land

- 21.10.12. Diligent inquiry must be undertaken to identify the categories of persons set out in s44 and s57 of the PA2008 as Categories 1, 2 and 3. The Applicant explained that prior to the first formal consultation exercise a diligent land referencing process was completed to identify relevant persons with an interest in land.

- 21.10.13. All interests within the Order land were identified, including owners, lessees, tenants, and occupiers, as well as persons who have an interest in land or have power to sell and convey, or to release land. Regarding potential Category 3 persons who may have a relevant claim pursuant to s10 of the Compulsory Purchase Act or s152(3) of PA2008, the Applicant confirmed that the Category 3 boundary had been identified on a conservative basis. The Applicant used a combination of an air noise contour, air noise change analysis and distance from the affected sections on roads to inform the Category 3 referencing boundary and to further ensure that anyone entitled to make a relevant claim was included in the Category 3 Boundary, those up to 250m from the highway developments were also included (para 7.2.5 and 7.2.7 of [REP9-009]).
- 21.10.14. Several amendments were made to the BoR during the Examination, particularly at D5 [REP5-009 and REP5-011], with reasoning provided in the Book of Reference – Schedule of Changes document [REP5-013]. At ExQ2, we asked whether any further changes to the BoR of a similar magnitude were anticipated prior to the close of the Examination [PD-021]. In response the Applicant confirmed that, in respect of Category 3 interests, due to the due diligence process they had undertaken and the scale of the BoR, additional changes to the BoR were likely [REP7-080].
- 21.10.15. The ExA is satisfied that the Applicant has undertaken, and continues to undertake, land enquiries in a diligent fashion and that the requirements under s44 and s57 of the PA2008 regarding categories of APs have been satisfactorily applied.

Extent of Land and Rights for Compulsory Acquisition and Temporary Possession

Land for Compulsory Acquisition

- 21.10.16. The Applicant set out that land and rights would be necessary to deliver the Proposed Development. The rationale for the extent of the required land and rights was set out, whereby the extent of the land and rights to be acquired were drawn with regard to avoiding any unnecessary interference with third-party land. The Applicant considered that all the land included in the Order land is necessary to enable the delivery of the Proposed Development and once detailed design had been undertaken, it would ensure that only the land that is required for the development would be acquired (para 6.2.6 of [REP9-009]).
- 21.10.17. The Applicant's Compulsory Acquisition and Temporary Possession – Status of Negotiations [REP9-110] set out its final position in respect of the justification for the grant of the acquisition of land and acquisition of rights and imposition of restrictive covenants with the specific use with the class of rights sought for Category 1 landowners, Crown land and SU. The BoR also identifies the extent of acquisition or use being sought over each plot of land which corresponds to specific articles in the dDCO for Category 1, 2 and 3 persons, Crown interest and for any Special Category Land [REP9-011 and REP9-013].

Land for Temporary Possession

- 21.10.18. In relation to the TP powers sought pursuant to Articles 37 to 39 of the dDCO, the Applicant set out its justification for the grant of these powers in Section 5.4 of the SoR [REP9-009]. The Applicant acknowledged that there would be situations where it would not be necessary to permanently acquire rights and interests, but instead it would be necessary to be authorised to temporarily possess and use private roads and land. The powers sought are required to carry out and thereafter maintain the

Proposed Development. The powers would be needed for a limited time during the construction phase and for occasional maintenance in the operational phase.

- 21.10.19. The ExA also notes that the Applicant has confirmed that it is applying for TP powers over the full extent of the Order land (Section 3.3.4 of [REP9-009]). Paragraph 7.21 of the Explanatory Memorandum (EM) [REP9-008] confirms that, where feasible, the Applicant intends to carry out construction pursuant to TP powers only vesting permanent interests or rights where necessary for construction and otherwise upon works completion, allowing for a more precise scope of land or rights to be permanently acquired. The Applicant considers that this approach is only feasible if it retains its CA powers at the time of completion of works, otherwise it would need to pre-emptively acquire rights and land.

ExA's Conclusion on the Extent of Land and Rights for Compulsory Acquisition and Temporary Possession

- 21.10.20. In considering the objections raised by APs who would be affected by CA, we have also taken all relevant objections or concerns into account in reaching our conclusions on the application for TP and rights in the same way as for permanent acquisition but set against the appropriate tests.
- 21.10.21. The ExA is satisfied that both the CA and TP powers sought are needed both to facilitate implementation of the Proposed Development and to maintain it, and that adequate compensation provisions are in place in the rDCO. We consider the human rights implications of both the temporary and permanent interests and rights sought later in this Chapter.
- 21.10.22. The ExA is satisfied that the Applicant has demonstrated how it intends to use the land rights which it proposes to acquire and the land for which it seeks CA and TP. We find the SoR comprehensive, when read with the BoR, the Compulsory Acquisition and Temporary Possession – Status of Negotiations and articles and Authorised Development descriptions in the dDCO. We are content that the SoS can be satisfied that there is no doubt as to the purposes for which any land which would be compulsorily acquired. Likewise, there is clarity over use of land for TP.

The Availability and Adequacy of Funding

- 21.10.23. Applicants are required to demonstrate that adequate funding is available, as detailed at paragraph 18 of the CA Guidance. The Applicant set out its justification for availability and adequacy of funding in its Funding Statement [APP-009], which accompanied the application, which it stated should be read alongside the SoR [REP9-009]. The Funding Statement explained how the Proposed Development generally would be funded and specifically how the acquisition of land and rights over land which are necessary to deliver the Proposed Development would be funded.
- 21.10.24. The Funding Statement indicates that the cost of implementing the Proposed Development would be approximately £2.2 billion. This figure includes land acquisition, including any compensation payable for any compulsory acquisition of land and interests in land and rights over land, and physical construction. The Applicant also confirmed that this cost estimate considers expected inflation and contingencies.
- 21.10.25. In response to ExQ1 CA.1.22 [REP3-087], the Applicant confirmed that the property cost estimate for the acquisition of land and rights would be approximately £121 million. This figure was calculated by property specialists, and it was updated in

February 2024 [REP3-087] to consider the latest information provided by Affected Persons during the Applicant's negotiations on acquisition.

- 21.10.26. The Applicant also confirmed in Section 3.2 of the Funding Statement [APP-009] and in response to ExQ1 CA.1.19 [REP3-087] that the Applicant proposes to fund the Proposed Development through a blend of debt, equity, and airport charges. This is stated as being on a similar basis to the historical funding of previous development works at Gatwick Airport. The Applicant's full accounts were also provided in the Applicant's Response to Actions CAH1: Compulsory Acquisition [REP4-038].
- 21.10.27. In terms of certainty of funding, in response to ExQ1 CA.1.21 [REP3-087] the Applicant stated that it considers that the historic evidence of its ability to fund major development works and the financial strength of Gatwick and its ownership group, as described in paragraphs 3.1.2 to 3.1.4 of the Funding Statement, should provide the ExA with sufficient confidence that adequate funding would be available.
- 21.10.28. The Applicant confirmed at CAH2 that there had been no updates to the Funding Statement and that the figure for the property cost estimate remained correct. It was further confirmed that funding matters were kept under review but that the Applicant did not see any reason for the figure to change [REP8-105].
- 21.10.29. At D10 [REP10-001], the Applicant provided a copy of the half-yearly financial results which were published for Gatwick Airport for the period ending 30 June 2024. The Applicant concluded that these results demonstrated that Gatwick Airport had continued to recover in line with its expectations and that it remained confident that 2025 would see a return to 2019 traffic levels and provide a strong foundation for future growth.
- 21.10.30. The ExA finds the way the Applicant has assessed the funding required for CA, and the likely cost of implementing the Proposed Development, to be satisfactory and reliable. The ExA has no reason to doubt that the Applicant is of sound financial standing, that it has the necessary funding applications in hand, and that the necessary funds would become available to finance the Proposed Development, including CA. We agree with the Applicant's statements that the SoS can be satisfied that all funding would become available if the Order is made.

The Need to Obtain Operational and Other Consents

- 21.10.31. The ExA's consideration of the other consents and licences required to implement the Proposed Development is set out in Section 1.8 of this Report and is not repeated here. Drawing on our findings in Section 1.8, we are satisfied that the Applicant has demonstrated that there is no impediment to obtaining any operational or other consents which may be necessary to construct and operate the Proposed Development. In this sense, paragraph 19 of the CA Guidance is met.

The Scope and Purpose for which Compulsory Acquisition is Sought

- 21.10.32. The SoR [REP9-009] sets out the considerations that need to be taken into account in deciding whether the condition in s122(2) of the PA2008 has been met. Paragraph 7 of the CA Guidance expands on s122, stating that applicants must be prepared to justify their proposals for CA of any land to the satisfaction of the SoS and paragraphs 8 to 22 of the CA Guidance provide several general considerations that applicants should demonstrate to the satisfaction of the decision maker.

- 21.10.33. For s122(2)(a) to be met, the Applicant should be able to demonstrate that the land in question is needed for the development for which consent is sought or is land required to facilitate or is incidental to that development. The SoS will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.
- 21.10.34. In the SoR [REP9-009], the Applicant confirmed that it already owns or controls most of the land and rights in land required for the Proposed Development and would seek to acquire all land and rights it requires by voluntary agreement. However, the Applicant maintains that a certain degree of flexibility is required due to the nature of the design process and timing of the consent process.
- 21.10.35. Turning to s122(2)(c) in respect of open space and replacement land, this matter is discussed above and the details regarding this issue are not therefore repeated here.

Associated Development Section 115(2)

- 21.10.36. Section 115(2) of the PA2008 provides that, in addition to the development for which consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for associated development. PA2008 defines associated development as development which is associated with the principal development.
- 21.10.37. As detailed at paragraphs 2.5 to 2.8 of the EM [REP9-008], the Applicant is also seeking consent for associated development, and this is defined in Schedule 1 of the dDCO [REP10-004]. The Applicant stated that all the Works described in Schedule 1 of the dDCO either constitute part of the NSIP or are associated development within the meaning of section 115(2) of the PA2008, and so could properly be authorised by the Order.
- 21.10.38. Section 3.5 of this Report provides a summary of the associated development works and is not repeated here. As also detailed in section 3.5, concern was raised by the LePAs over the inclusion of the hotels and office within the dDCO. Following questions during ExQ2 [PD-021], Requirement 34 of the dDCO was introduced by the Applicant to ensure that the new office must only be occupied by an entity 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. This commitment was welcomed by the LePAs [REP8-161].
- 21.10.39. The ExA is of the view, as set out in the EM, that the associated development in Schedule 1 of the rDCO comprises development for which development consent would be sought. The land required for this associated development can therefore, in principle, be CA pursuant to s122(2) of the PA2008.

The Scope and Purpose for which Compulsory Acquisition is Sought

- 21.10.40. The ExA is satisfied that the rights sought for the CA of land, CA of rights and TP of land included in the revised BoR and shown on the Land Plans and Special Category Land Plans would be required for, or to facilitate or incidental to, the Proposed Development to which the development consent relates.
- 21.10.41. We are content that both the principal development, and the associated development, identified by the application would be needed for that purpose. The ExA therefore confirms that in its opinion, the requirements of s122(2)(a), (b) and (c) PA2008 are met.

Whether there is a Compelling Case in the Public Interest

- 21.10.42. In section 4 of the SoR [REP9-009] the Applicant provided a summary of both the need and benefit of the Proposed Development, with a full explanation of the need detailed in the Needs Case [APP-250]. The Applicant also stated that the Planning Statement [APP-245] also demonstrated that there would be substantial public benefits arising from the implementation of the Proposed Development.
- 21.10.43. Additionally, in response to ExQ1.CA.1.11, CA.1.12 and CA.1.13 [REP3-087], the Applicant stated consideration had been given to the private loss that would result for individual APs in the event that land out of its own ownership would be required. Any such private loss is considered to have been drastically reduced by the majority of the Proposed Development being carried out on the airport or SRN which are owned by the Applicant and NH respectively. It was also noted that the Applicant is not seeking to acquire any residential properties, although some plots are located within the titles of residential properties.
- 21.10.44. For those areas where the Applicant is required to rely on third party land, the Applicant has assessed the private loss through engagement with APs and consideration of the current uses of the land. In carrying out such an assessment of private loss, the Applicant has considered that those affected by the exercise of CA or TP powers would be entitled to compensation under the National Compensation Code. Further the Applicant has given weight to the confidence that it holds sufficient resources to provide such compensation.
- 21.10.45. The ExA has also had regard to the objections raised by all APs, reported above. We consider that the private loss of land would be relatively modest given that most of the Proposed Development would take place on existing airport land or on the SRN. As such we conclude that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development.
- 21.10.46. We have considered the points made in relation to whether the required land take is proportionate. However, we are satisfied that the Applicant has explored all reasonable alternatives to CA and any possible modifications to the Proposed Development in respect of required land take. In line with paragraphs 5 to 7 of the CA Guidance, the objections raised do not dissuade us from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.
- 21.10.47. The Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there is a reasonable prospect of the requisite funds, both for acquiring the land and implementing the Proposed Development, becoming available. We are therefore satisfied that a compelling case in the public interest for CA exists.

Human Rights

- 21.10.48. The European Convention on Human Rights (ECHR) was incorporated into UK domestic law by the Human Rights Act 1998. The CA Guidance, paragraph 10 states that the SoS must be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. Therefore, in assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is also necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.

- 21.10.49. The Applicant acknowledged that the dDCO would engage several Articles of the ECHR:
- Article 1 of the First Protocol - the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions;
 - Article 6 of the First Protocol - which entitles those affected by the powers sought to a fair and public hearing; and
 - Article 8 of the First Protocol - which seeks to protect private and family life, home and correspondence [REP9-009], Section 6.2.
- 21.10.50. The Applicant stated that it had carefully considered the human rights relevant to the Proposed Development prior to making the application and carefully considered the balance to be struck between individual rights and the wider public interest. The Applicant acknowledged that the Proposed Development could have the potential to infringe the human rights of persons who own property within the Order land or have rights over the land within the Order land. However, there would be no violation of those rights where it had been demonstrated that the proposed interference would be 'in the public interest' and lawful.
- 21.10.51. The Applicant concluded that proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest because:
- parties were able to make representations during the pre-application stage through the consultations that the Applicant undertook under s44 PA2008;
 - representations have been able to be made via objections in writing and at CAHs;
 - those affected by CA and/ or TP powers would be entitled to compensation, for which the Applicant has resources;
 - the need for the Proposed Development is clear and of national importance; and
 - there would be very significant benefit arising from the grant of development consent [REP9-009].
- 21.10.52. Therefore, the Applicant reasoned that the inclusion of powers of CA and TP in the Order would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the Order for the Proposed Development including the grant of powers of CA and TP.

ExA's Conclusion on Human Rights

- 21.10.53. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur if CA and TP powers were granted. The ExA agrees with the Applicant that the rDCO would engage Article 1 of the First Protocol and Article 8.
- 21.10.54. These rights are qualified and can be interfered with in certain circumstances, such as if it is necessary to protect the legitimate interests of the wider community. In this case, the ExA has attributed significant positive weight to the clear need for the Proposed Development described earlier in this Report. This is a legitimate interest of the wider community. In this context, it is also relevant that those affected would be entitled to fair compensation, and the Applicant has demonstrated that the resources to pay such compensation are available. Moreover, the Applicant has taken steps to ensure its approach to land acquisition is proportionate and would not give rise to interference with private rights beyond what is necessary.

- 21.10.55. The Applicant confirmed that the land affected has been kept to a minimum, and, under the rDCO, the power for CA within the Order Limits can only be exercised where required for the Proposed Development. Reliance has also been placed on TP wherever possible, rather than CA. The Applicant has also sought to reach voluntary agreements with persons with an interest in the land affected.
- 21.10.56. The Applicant advised that no homes are required to be compulsory acquired because of the Proposed Development. The Applicant did however confirm that it would be necessary to take parts of the curtilage of two homes (Plots 1/229, 1/013A and 1/025 of [REP10-007]), although there would be no requirement for the dwellings to be vacated during construction and no displacement of any residents would occur. The ExA agrees that in this instance the limited interference with the owner's Article 8 rights would be lawful and necessary in the interests of the economic well-being of the country, proportionate, and it would, therefore, comply with Article 8(2). Accordingly, the limited extent of acquisition proposed is necessary and has been properly justified and is entirely proportionate to the need it is intended to address.
- 21.10.57. The ExA is therefore satisfied that the powers sought would be no more than is required to secure the interests of the wider community. The ExA is also satisfied that, due in part to the fair compensation available, they would not be likely to place an excessive burden on those whose human rights could be affected. The ExA therefore considers that there would be no violation of Articles 1 and 8.
- 21.10.58. The ExA also agrees with the Applicant that the rDCO engages Article 6 of the ECHR which relates to the need for a fair hearing. The application and its Examination procedurally accord with the PA2008 and related guidance. The ExA is satisfied that APs have had a reasonable chance to put their cases, all of which have been taken into consideration in reaching our recommendation. In so doing, the ExA is satisfied that no AP has been put at a substantial disadvantage in relation to other parties. The ExA therefore considers that there has been no violation of Article 6.
- 21.10.59. Finally, in terms of the overarching aims of the Human Rights Act 1998, CA Guidance and the required balancing exercise, we are satisfied that the public benefit from the Proposed Development would clearly outweigh any interference with the human rights of those with an interest in the land affected.
- 21.10.60. We therefore consider that any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest.

Equality Act 2010

- 21.10.61. Section 149 of the Equality Act 2010 (2010 Act) requires a public authority, in the exercise of its functions to:
- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who do share it.
- 21.10.62. The Applicant is not a public body as listed in s149 of the 2010 Act and as was also confirmed by the Applicant during Issue Specific Hearing 3 – Socioeconomics (ISH3) [EV8-001 and EV8-002] and in the Applicant's Response to Actions from Issue Specific Hearing 3 – Socio-economics [REP1-064], the Applicant agreed with

the JLAs that the need for an Equality Impact Assessment under the 2010 Act did not apply to the Applicant.

21.10.63. The Applicant did however produce an Equality Statement at D3 [REP3-109] which explained how the Applicant had had regard to public sector equality duties (PSED) and as such has had regard to the PSED principles when exercising its functions as a private organisation.

21.10.64. The purpose of PSED is to ensure that public authorities and organisations carrying out public functions think about how they can improve society and promote equality in every aspect of their day-to-day business, which includes how they are promoting equality in decision-making. It also sets out that having due regard means that an organisation has made itself aware of, and understood, what PSED means and has put this knowledge into practice.

ExA's Conclusion on the Equality Act 2010

21.10.65. Whilst noting the concerns raised by WSCC in respect of the need for a standalone Health Impact Assessment (HIA), the ExA considers that the Applicant recognised and undertook an assessment based on the principles of the PSED to make reasonable adjustments to processes that would otherwise unfairly disadvantage those with protected characteristics, if such circumstances had the potential to arise. In this regard, the ExA does not consider the production of individual HIA for each of the relevant local authorities necessary.

21.10.66. The ExA is satisfied that the Applicant has had due regard to the duties under s149 of the 2010 Act. In exercising our functions as the ExA, we have also had due regard to the PSED contained in s149 of the 2010 Act. We conclude that there is no evidence that implementation of the Proposed Development would disproportionately affect persons who have a protected characteristic, nor would there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic.

Section 120(5)(A) and Section 126, the Incorporation of Other Statutory Powers

21.10.67. The rDCO seeks, in several instances, to apply s120(5)(a) of PA2008 and apply, modify or exclude a statutory provision. Since the rDCO is in the form of a Statutory Instrument, it would comply with s117(4) PA2008. Furthermore, no provision would contravene the provisions of s126 PA2008 which relates to the modification or exclusion of a compensation provision.

Section 123, Land to which Authorisation of Compulsory Acquisition can Apply

21.10.68. In terms of s123 the ExA is content that the application for the Order includes a request for CA of the land to be authorised. We are also content that the prescribed procedure has been followed in relation to the land in terms of diligent inquiry and the right for APs to be heard at CAHs and that they had the opportunity to submit representations and evidence in writing. Therefore, the SoS can be satisfied that at least one of the specified conditions have been met.

21.11. ExA's CONCLUSION ON COMPULSORY ACQUISITION AND RELATED MATTERS

- 21.11.1. The ExA is satisfied that the CA sought in all the plots of land included in the BoR [REP9-011 to REP09-013] and shown on the Land Plans [REP10-007] would be required for, or to facilitate or be incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the associated development, identified in the application would be needed for that purpose. The requirements of s122(2)(a) and (b) of the PA2008 are, therefore, met.
- 21.11.2. Turning to s122(3), we have had regard to all objections raised. We are content that the Applicant has endeavoured to minimise the impact that CA would have on those APs affected by the Proposed Development and hence the extent of their private loss. The private loss to those affected would be mitigated by limiting the use of CA powers to land necessary to deliver the Proposed Development and by the use of TP powers wherever possible to minimise both land take and the extent of rights and interests to be acquired.
- 21.11.3. The ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including acquisition by negotiation and agreement. The ExA concludes that there are no alternatives to the CA powers sought which ought to be preferred. The ExA is also satisfied that the Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there would be a reasonable prospect of the requisite funds both for acquiring the land and implementing the Proposed Development becoming available within the statutory timescale.
- 21.11.4. The ExA therefore concludes that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation, and maintenance of the Proposed Development. Taking these various factors together, there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans. The ExA concludes that the Proposed Development would thus comply with s122(3) PA2008.
- 21.11.5. The ExA finds that the TP powers sought would be necessary both to facilitate implementation of the Proposed Development and to maintain it and that adequate compensation provisions are in place in the rDCO.
- 21.11.6. Section 127 and s138 PA2008 objections were made and had not been withdrawn by the close of the Examination. These objections have been considered as reported earlier and where differences remain between the Applicant and SU, the ExA has recommended wording, which has been before parties during the Examination, for the SoS to include in the rDCO Schedule 9 Protective Provisions.
- 21.11.7. The rDCO seeks, in several instances, to apply s120(5)(a) and apply, modify or exclude a statutory provision. Since the dDCO is in the form of a statutory instrument, it would comply with s117(4). Furthermore, no provision would contravene the provisions of s126 PA2008 which relates to the modification or exclusion of a compensation provision.
- 21.11.8. The ExA is satisfied that, in relation to the inclusion of CA and TP powers in the rDCO, any interference with human rights would be for legitimate purposes, would be proportionate and would be justified in the public interest. We are also satisfied that there is no evidence that the Proposed Development would not accord with

s149 of the 2010 Act. In this regard we are content that the SoS can be satisfied that they would comply with the principles of the PSED in decision-making.

21.11.9. In the event that the SoS is minded to grant development consent for the Proposed Development, the ExA recommends that:

- the CA powers included in the rDCO be granted;
- the TP powers included in the rDCO be granted;
- the powers authorising the CA of SU's land and rights over land included in the rDCO be granted;
- the powers authorising the extinguishment of rights, and removal of apparatus, of SU included in the rDCO be granted;
- the PPs for NH, TWUL and MAM should be included in Schedule 9 in the form set out in the rDCO, unless the SoS is aware of evidence of agreement having been reached that would lead to agreed different wording; and
- the powers included in the rDCO to apply, modify, or exclude a statutory provision be granted.

21.11.10. The BoR [REP9-011 and REP9-013] and the Crown Land Plans [REP9-016] identify that various plots comprise Crown land. The BoR identifies that in respect of these plots, the Applicant is seeking either TP, acquisition of new rights, imposition of restrictive covenants or freehold acquisition. In addition, Article 44 (Crown rights) of the dDCO [REP10-004] includes provision for the acquisition of Crown interests. In line with s135 of PA2008, the consent of the relevant Crown authorities is required.

21.11.11. However, at the close of the Examination, Crown consent had not been received from all Crown interests. The below table provides an update in respect of negotiations at D9:

Table 21.2: Unresolved Agreements with Crown Interests

Crown interest	Position at Deadline 9
Secretary of State for Levelling Up, Housing and Communities (now the Ministry of Housing, Communities and Local Government)	The Applicant confirmed that it had undertaken regular engagement with the Secretary of State for Levelling Up, Housing and Communities' appointed agent in respect of a MoU. The Applicant anticipated that s135 consent would be forthcoming and no specific issues to prevent this occurring was reported.
HM Revenue and Customs	The Applicant confirmed that it had undertaken regular engagement with HM Revenue and Customs post Deadline 7 in respect of a MoU. The Applicant anticipated that s135 consent would be forthcoming no specific issues to prevent this occurring was reported.
UK Visas and Immigration	The Applicant confirmed that it had undertaken regular engagement with UK Visas and Immigration post Deadline 7 in respect of a MoU. The Applicant anticipated that s135 consent would be forthcoming and no specific issues to prevent this occurring was reported.

21.11.12. As such, this recommendation is subject to the Crown giving consent for the CA and TP of Crown land in accordance with s135, prior to the SoS's decision.

22. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

22.1. INTRODUCTION

- 22.1.1. The application draft Development Consent Order (dDCO) [APP-006] and the Explanatory Memorandum (EM) [APP-007] were submitted by the Applicant as part of the application for development consent. Both the dDCO and EM were updated throughout the Examination with the latest version of the dDCO being [REP10-004] and the EM being [REP9-008]. The EM describes the purpose of the dDCO and each of its articles and schedules.
- 22.1.2. This Chapter provides a summary of the main changes made to the dDCO during the Examination. For the reasons explained below, alongside the Applicant's final dDCO [REP10-004] we present our own recommended DCO (rDCO) in Appendix E of this Report.
- 22.1.3. Changes because of typographical or grammatical errors, or minor changes in the interests of clarity, consistency or updates to lists following discussion between the Applicant and relevant IPs, or as a result of written questions or comments which we have made, are not reported.

22.2. THE STRUCTURE OF THE ORDER AND RELATED DOCUMENTS

- 22.2.1. The structure of the Applicant's final dDCO [REP10-004], is set out in Table D1 in Appendix D. The structure is explained more fully in the final EM [REP9-008]. The EM takes account of the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. It also refers to where the drafting has been taken from wording for other orders made under the Planning Act 2008 (PA2008) to support the Applicant's position. Details are included in Table D2 in Appendix D. The original application dDCO and subsequent iterations are in the form of a statutory instrument as required by s117(4) of the PA2008.
- 22.2.2. No IPs objected to the structure of the DCO, and we find that it is fit for purpose and no changes to the structure are required.
- 22.2.3. Alongside the dDCO the Applicant identified (section 5.5 of the Planning Statement [APP-245] and section 26.4 of the Applicant's Closing Submissions [REP9-112]) various "*control documents*" which would be secured through direct commitments under the dDCO and a signed legal agreement under section (s) 106 of the Town and Country Planning Act 1990 (the s106 agreement) [REP9-102]. The control documents contain more detailed commitments and are presented at three levels: Level 1, intended to be finalised at the end of the Examination, being certified documents under Article 52 and listed in Schedule 14 of the DCO; Level 2 being documents to be drafted and approved by an external body following the granting of the DCO; and Level 3 being implementation plans prepared by a contractor and approved by Gatwick Airport Limited (GAL) to ensure controls are complied with. The Applicant's closing statement [REP9-112] at Table 1 sets out the framework of control documents highlighting the securing mechanism and the approving bodies.
- 22.2.4. The Mitigation Route Map [REP8-020] collates all of the measures identified through the Environmental Statement (ES) as necessary to make the Proposed Development acceptable in planning terms and which are secured either through

the dDCO or the s106 agreement. In addition, a Register of Environmental Actions and Commitments [REP8-121] provides further detail of the environmental commitments and actions secured.

22.2.5. During the Examination through WRs, Issue Specific Hearings (ISH) and written questions various issues were raised in relation to the detail of certain control documents. Where appropriate these are addressed in the relevant topic chapter.

22.3. KEY CHANGES TO THE APPLICANT'S DRAFT ORDER

22.3.1. The Applicant updated the dDCO during the Pre-Examination stage and during the Examination at various deadlines responding to issues raised in questions, to Written Representations (WR) and as a consequence of the hearings process. The Applicant submitted both clean and tracked change versions of the dDCO. The changes made to the dDCO and the reasons for these changes can be found in the Schedule of Changes to Development Consent Order [REP9-006] submitted alongside revised version of the dDCO. Table D3 in Appendix D summarises the key dDCO documentation submitted and the notable changes made to the dDCO throughout the Examination.

22.3.2. Section 26.2 of the Applicant's Closing Submissions [REP9-112] provides details of the key amendments which the Applicant made to its dDCO Articles during the Examination. These can be summarised as follows:

- Article 6 – the limits of deviation (previously limits of works) for surface access works were agreed to be adjusted to address National Highways (NH) concerns.
- Article 9 – in respect of Article 9(4) an obligation was added for the undertaker to notify the relevant planning authority when an incompatibility between an existing planning condition and the Order that engages the provision is identified.
- Article 9 – in respect of Article 9(5) (now Article 9(6)) the Applicant disapplied permitted development rights in respect of Museum Field and the site of Work No. 43.
- Article 10 – provides for the application of the Surrey and West Sussex permit schemes and lane rental schemes for local highway works.
- Article 25 – includes an obligation to carry out works in accordance with British Standard 3998:2010 (Tree works) for any relevant works.
- Article 31 – the time limit from the “start date” to exercise compulsory acquisition (CA) powers was amended from 10 years to 7 years.
- Article 40 – the Applicant accepted the responsibility of management of all replacement open space.
- Subsequent approvals – the provision of subsequent consent/ approval/ consultation provisions by a relevant planning authority, including in relation to Articles 13, 14, 16 and 18.
- Notification obligations – additional notification obligations were provided including in respect of Article 8 and Requirement (R) 13.
- Deeming provisions – an amendment removed the reference to consent being unreasonably delayed.

22.3.3. The key amendments which the Applicant made during the Examination to the Requirements in Schedule 2 of its dDCO, as well as Schedule 13, can be summarised as follows:

- R2 – included to ensure that the Joint Local Authorities (JLAs) would receive sufficient information on the anticipated sequencing of requirement discharge applications being submitted.
- R4 – the structure and operation of R4 and the level of specific information to be submitted in connection with detailed design consultation and approval has been amended.
- R19 – amendments include the use of air movements rather than air transport movements.
- R37 – the Applicant committed to a cap on car parking spaces within the Order Limits.
- New requirements – comprising R31 (construction sequencing), R33 (North and South Terminal roundabouts BAU improvement scheme), R34 (office occupier), R36 (Thames Water phasing plan) and R39 (tree balance statement).
- Discharging authorities – the Applicant amended the details of which entities should discharge or be consulted on specific requirements.
- Schedule 13 – the Applicant included an informative schedule to ensure that maximum heights are clear on the face of the Order.

22.4. DCO MATTERS ADDRESSED THROUGH THE EXAMINATION

22.4.1. Table D4 in Appendix D sets out those matters which were included in the Applicant's final dDCO [REP10-004] which were unresolved due to outstanding concerns from IPs at the end of the Examination. The final column of Table D4 provides our commentary on the issue. Where we do not accept the Applicant's position, we take forward any necessary change to the rDCO.

22.4.2. While the detail of disputed DCO provisions can be found in Table D4 it is necessary to highlight various DCO issues which the Examination considered because of their significance to our Recommendation. As can be seen from Table D4, these all related to requirements in Schedule 2 of the dDCO and were:

- surface access commitments and parking;
- the noise envelope and noise insulation scheme;
- wastewater treatment; and
- the JLAs proposed Environmentally Managed Growth (EMG) Framework;
- good design.

22.4.3. However, before addressing those issues specifically we outline our approach to consultation on potential changes to the dDCO to provide context for the commentary on those matters.

The ExA's DCO Consultations

22.4.4. Item 3 in our Agenda for ISH9 [EV20-001] addressed mitigation. Specifically, item 3.1 asked the Applicant and JLAs about the draft Requirements in Schedule 2 of the dDCO [REP7-005] and the potential changes identified at Annex B of the Agenda. In addition to discussion at ISH9 we sought detailed responses to the potential amendments at Deadline (D) 8. The purpose of identifying potentially significant changes to the dDCO at ISH9 was to give IPs and particularly the Applicant an early opportunity to comment and reflected the concerns which we had about the Applicant's proposed requirements concerning the air noise envelope, noise insulation scheme and surface access. It also provided us with the opportunity to seek IPs views on potential new requirements.

22.4.5. In line with the Examination Timetable at Annex A of the Rule 8 Letter [PD-011], on 14 August 2024 we published the ExA's proposed schedule of changes to the

dDCO [PD-028]. This set out the ExA's recommended amendments to the Applicant's dDCO published at D8 [REP8-005] with a request for comments by D9 and comments on any responses by D10.

Surface Access Commitments and Parking

- 22.4.6. The Applicant's method of controlling surface access relied on the Surface Access Commitments (SAC) [REP9-043]. The SAC set out target mode shares and dates that these would be achieved by. It also specified the monitoring approach and an action planning process to address any potential or actual failures to meet mode share targets. The SAC would be secured by R20 of the dDCO [REP10-004].
- 22.4.7. The ExA took the view that the Applicant's approach did not prevent the possibility of the mode share commitments not being met, which may result in additional significant effects not addressed in the Applicant's ES assessment. The ExA's consideration is set out in Chapter 5 of this Report (paras 5.3.52 to 5.3.80). Consequently, we proposed an alternative R20 that controlled first use of some elements of the development until the Applicant's mode share targets had been met. The recommended revisions to R20 are detailed in Table 22.1 below.
- 22.4.8. We also explored the related issues concerning the control of car parking throughout the Examination. The ExA had concerns about the control over parking levels and in particular that permitted development rights could be used over time to provide more parking than applied for. Our consideration is set out in Chapter 5 of this Report (paras 5.3.81 to 5.3.91). As a result, we are recommending an amended R37 as set out in Table 22.1 below.

Air Noise Limits and Receptor Based Mitigation

- 22.4.9. With regard to air noise limits, as explained in Chapter 6 of this Report, these should be based on the Applicant's original central fleet transition case. The Applicant's final proposals were based on an assumed slower rate of fleet transition and would not have the effect of sharing the benefits of quieter aircraft with the affected communities as set out in policy. The Applicant's R15 and R16 are replaced with a single new requirement as set out in Table 22.1 below which defines the air noise limits, and the calculation and monitoring arrangements. This approach is consistent with Condition 7 of the London Stansted Airport planning application appeal decision ref: APP/C1570/W/20/3256619, May 2021.
- 22.4.10. With regard to receptor-based mitigation, as explained in Chapter 6 of this Report, eligibility should be based on significant effect thresholds derived from guidance and the evidence presented to the Examination. The design of receptor-based mitigation and the timing of its implementation should be consistent with the aim of avoiding significant adverse noise effects on people in their homes as set out in policy, which the Applicant's final proposals would not achieve. The Applicant's R18 is replaced with a new requirement as set out in Table 22.1 below which defines an eligibility, design and implementation process overseen by the relevant local planning authority who are best placed to take local context into consideration.

Wastewater

- 22.4.11. Discussions between the Applicant and Thames Water Utilities Limited (TWUL) had been ongoing for some time before and throughout the Examination. These discussions had failed to fully identify the impact of the Proposed Development on both the capacity of the public sewer network and the capacity of TWUL's off site wastewater treatment works (WTW). As a result, in the event that that a satisfactory

solution was not agreed with TWUL prior to the commencement of dual runway operations, the Applicant proposed construction and operation of an onsite WTW as an alternative solution. The Applicant proposed that its alternative solutions would be secured by R31 and R36 of the dDCO [REP10-004]

- 22.4.12. Ultimately there was no agreement between the Applicant and TWUL and the SoCG [REP9-094] was unsigned at the close of the Examination. Our considerations on this matter are set out in Chapter 11 of this Report (paras 11.3.15 to 11.3.35). Consequently, the ExA is recommending an amendment to R31 and deletion of R36 as set out in Table 22.1 below.

Proposals for Environmentally Managed Growth

- 22.4.13. Through various submissions throughout the Examination the JLAs and LePAs promoted the idea of EMG as a necessary control for the Proposed Development [REP4-050, REP5-093, REP6-100, REP7-102 and REP7-108]. EMG is based on the premise that if the Proposed Development is to proceed it should stay within the environmental parameters against which it has been assessed with the risks borne by the Applicant rather than passing costs onto local communities and the receiving environment. Sanctions would be imposed where agreed thresholds and limits were not met, and slot allocations stalled until compliance with environmental parameters was demonstrated. Ongoing monitoring of the actual environmental effects would occur, and independent oversight of effects would be provided by a new independent Environmental Scrutiny Group (ESG) comprising representatives of local authorities and specialists. Growth would therefore be linked to environmental performance. The EMG Framework would seek to secure acceptable controls on the Proposed Development's impacts on noise, surface access, air quality and greenhouse gas (GHG) emissions.
- 22.4.14. The Applicant responded to the JLAs' proposals [REP5-074, REP6-093 and REP8-118] and in its closing submission [REP9-112] it noted that Government policy favours sustainable aviation growth with no policy or legislative control over that growth. It rebutted the EMG approach with criticism focused on the JLAs' concerns about the retrospective effects of the controls proposed by the Applicant and the approach to effective independent oversight.
- 22.4.15. Comments have been provided in the relevant chapters of this Report on the topics which the EMG Framework proposes to address and they are not repeated here. Nevertheless, it is appropriate to comment on the overall approach.
- 22.4.16. Before addressing the differences between the EMG approach and the approach of the Applicant we note the commonality which the Applicant commented upon. Both approaches include limits/ targets in relation to key environmental topics; the annual monitoring of performance would occur with action taken where the trajectory indicates potential non-compliance; each would involve independent oversight; and in relation to air noise, there are potential growth limitations where limits are forecast to be breached.
- 22.4.17. The JLAs proposed to monitor activity within topics to prevent growth where exceedance of the controls was likely to occur. That would still involve looking back and would not overcome the concern they identified about the Applicant's approach being retrospective in dealing with effects once they had occurred. Moreover, having an overarching mechanism through the EMG Framework would not overcome this concern any more than the Applicant's approach involving separate, bespoke mitigation controls. Both approaches allow for monitoring to be predictive

and for any breach in commitments to be avoided. On this issue there is no evidence that EMG would be more effective than the Applicant's approach.

- 22.4.18. We also question the basis on which the ESG is proposed. Gatwick Airport has existing mechanisms in place to provide control and oversight and while we heard criticisms about the effectiveness of some of these mechanisms, we are not persuaded that the new body working in parallel with existing arrangements would overcome the JLAs' concerns and therefore would not be necessary. To establish the ESG without support from GAL would appear likely to limit any perceived control which this group could exercise. Again, the proposal fails because it provides nothing additional to the Applicant's proposals. To date, alternatives proposed for other airports have not been adopted and in any event would not provide justification for applying such an approach at Gatwick.
- 22.4.19. The JLAs reference the statement in *Beyond the Horizon - The Future of Aviation: Making Best Use of Existing Runways (MBU)* that growth should be "*subject to environmental issues being addressed*" (para 1.5) but nothing in MBU, the Airports National Policy Statement (ANPS) or other aviation policy proposes a constraint on growth. Applications are required to demonstrate how they will mitigate environmental issues which the Applicant's approach seeks to do. No justification is provided for departing from normal planning practice in relation to the application of controls as set out in paragraph 4.9 of the ANPS and Planning Practice Guidance. For these reasons we did not consider it was appropriate to proceed with EMG.

Good Design

- 22.4.20. Extensive discussions between the Applicant and LePAs on good design took place during the Examination and the matter progressed reasonably substantially, with R4 changing, along with the definition of 'listed works' on which more detailed design would be required and the introduction of a Design Advisor to consider certain proposed works.
- 22.4.21. However, the respective parties remained a fair distance apart at the end of the Examination. Our detailed considerations on this matter are set out in Chapter 18 of this Report. The ExA is recommending amendments to R4, and Schedule 12 as set out in Table 22.1 below.

22.5. THE ExA's RECOMMENDED CHANGES

- 22.5.1. Tables D4 and D5 of Appendix D address DCO issues which were outstanding at the end of the Examination. The final column of each table provides our commentary on each issue. In some cases, we conclude that no change is required to the Applicant's final dDCO; in other cases, we do not accept the Applicant's position and propose changes.
- 22.5.2. For clarity Table 22.1 below shows for each provision where we recommend change to the Applicant's version alongside our recommended change together with the reasoning taken from Tables D4 or D5.
- 22.5.3. While not diminishing the importance of any proposed changes some are more significant than others. These are the changes which we consider are necessary to be able to recommend to the SoS that the Order is made. Conversely, without these recommended changes we have concluded that consent should be withheld.

22.5.4. Given that the Applicant has already rejected the most significant changes, and having concluded that we could not recommend that the SoS makes the Order without them, we have included all of the recommended changes in the rDCO at Appendix E.

Table 22.1: Recommended Changes to the Final dDCO

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
Articles			
Article 9 (7)	Insertion of new text on Work No. 41.	(7) The undertaker must not exercise the permitted development right in Class F of Part 8 of Schedule 2 (transport related development) to the 2015 Regulations for any development on the areas labelled Work No. 38 (habitat enhancement area and flood compensation area at Museum Field), Work No. 41 (ecological area at Pentagon Field) or Work No. 43 (water treatment works) on the works plans.	Parties' positions are set out in Table D5 in Appendix D and the ExA agrees with the JLAs that this amendment should be included in the rDCO.
Article 49 (1)	Sub-paragraph 1, deletion of "(fb)".	49.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(c) in relation to a nuisance falling within paragraph (d), (e), (g) and (ga) 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—	Position is set out in Table D5 in Appendix D.
Schedule 2 – Requirements (R)			
R1 (1) Interpretation	Sub-paragraph (1) delete the following – “noise envelope document”; “noise insulation scheme document”;	Revised- “noise model verification report” means a report detailing the review undertaken by an independent expert with credentials to carry out that review approved by the Institute of Acoustics to verify noise monitoring data in the	The ExA's views on air noise limits are explained in Chapter 6 of this Report in paragraphs 6.4.98 to 6.4.170. The ExA's

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
	<p>“annual monitoring and forecasting report” and accompanying text.</p> <p>“extant noise envelope review document” and accompanying text.</p> <p>“extraordinary noise envelope review document” and accompanying text.</p> <p>“noise compliance plan” and accompanying text.</p> <p>“noise envelope limits” and accompanying text.</p> <p>“noise envelope review document” and accompanying text.</p> <p>“previous year’s actual performance contours” and accompanying text.</p> <p>“specialist aviation forecaster” and accompanying text.</p> <p>Sub-paragraph 1 delete the following wording from noise model verification report text “used for the purposes of the production of the noise annual monitoring and forecasting report,”</p>	<p>noise model, including the siting of the noise and track keeping terminals and processing of data, which shall make recommendations to improve the validity of the noise modelling in future years where identified to be necessary;</p> <p>Add new-</p> <p>“eligible premises” means premises approved in writing by the relevant local planning authority after its consideration of potentially eligible premises provided by the undertaker;</p> <p>“LAeq 16h” means the equivalent sound level of aircraft noise in dBA for the 16 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 0700 and 2300 local time during the 92-day period 16 June to 15 September inclusive;</p> <p>“LAeq 8h” means the equivalent sound level of aircraft noise in dBA for the 8 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 2300 and 0700 local time during the 92-day period 16 June to 15 September inclusive;</p>	<p>views on receptor based mitigation are explained in paragraphs 6.4.76 to 6.4.97.</p>

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
	All other parts of R1 retained.	“potentially eligible premises” means a main residence, school or college, hospital, library, place of worship, or community facility, where, following the commencement of dual runway operations, air noise, ground noise or combined air and ground noise is predicted to exceed 54 dB LAeq 16 h, and for main residences where, following the commencement of dual runway operations, air noise, ground noise or combined air and ground noise is predicted to exceed 48 dB LAeq 8 h;	
R2 (Phasing scheme)	New sub-paragraphs (3) and (4) as follows inserted and dDCO paragraphs (3) and (4) renumbered as (5) and (6).	<p>(3) 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 in writing by the host authority in question.</p> <p>(4) 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 in writing 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 in writing by the host authority in question.</p>	The ExA's position is that the additional sub-paragraphs are necessary to ensure that the host authorities would be able to organise necessary resources appropriately without causing any significant delay to the Proposed Development.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views			
R3 (2) (Time limit and notifications)	Sub-paragraph (2) delete "28" from both (b) and (d) and insert 42.	(2) (b) at least 42 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; (d) at least 42 days prior to the anticipated date of commencement of dual runway operations; and...	The parties' positions are set out in Table D5 in Appendix D and with the change from working days in earlier versions of the dDCO to calendar days at D6 it is not unreasonable that the 42-day period is included.			
R4 (Detailed design)	Sub paragraph (5) delete the following wording "those of the following that are reasonably considered necessary for the part of the listed work in question by CBC or MVDC (as relevant)".	(5) The details referred to in sub-paragraph (4) must include—	The parties' positions are set out in Table D5 in Appendix D.			
R15 (Air noise envelope) R16 (Air noise envelope reviews)	Delete all of R15 and R16.	<p>Air noise limits</p> <p>15. (1) The undertaker shall not operate the airport for dual runway operations unless the air noise contour enclosed areas set out in Table 1 are complied with.</p> <p>Table 1</p> <table border="1" data-bbox="958 1305 1718 1396"> <tr> <td data-bbox="958 1305 1227 1396">Air noise contour</td> <td data-bbox="1227 1305 1469 1396">Enclosed area from the first to</td> <td data-bbox="1469 1305 1718 1396">Enclosed area from the sixth</td> </tr> </table>	Air noise contour	Enclosed area from the first to	Enclosed area from the sixth	Parties' positions are set out in Table D5 in Appendix D and the ExA's considerations are set out in paragraphs 6.4.98 to 6.4.170 of this Report.
Air noise contour	Enclosed area from the first to	Enclosed area from the sixth				

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)			ExA's views
			fifth year of dual runway operations	year of dual runway operations	
		51 dB LAeq 16 h	125 km ²	125 km ²	
		45 dB LAeq 8 h	146 km ²	135 km ²	
		(2) Air noise contour reports shall be published annually by the operator to demonstrate compliance with this requirement, as soon as is reasonably practicable following the first year and subsequent years of dual runway operations. The air noise contour enclosed areas set out in Table 1 shall be calculated using the Civil Aviation Authority's Environmental Research and Consultancy Department (ERCD) Aircraft Noise Contour model, version 2.4 or later.			
R18 (Noise insulation scheme)	Delete all of R18.	<p>Receptor based noise mitigation</p> <p>18. (1) Within not more than 3 months following the commencement of any of Work Nos. 1 – 7 (inclusive) the undertaker shall submit to the relevant local planning authority details of premises forecast to be potentially eligible premises, as defined in Requirement 1, at or after the commencement of dual runway operations.</p> <p>(2) Within not more than 6 months following the commencement of any of Work Nos. 1 – 7 (inclusive) the undertaker must take appropriate steps, having consulted</p>			Parties' positions are set out in Table D5 in Appendix D and the ExA's considerations are set out in paragraphs 6.4.76 to 6.4.97 of this Report.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>with the relevant local planning authority, to notify the owners and occupiers of all eligible premises, as defined in Requirement 1, that the premises are eligible for the design and installation of a package of measures that may include ventilation, noise insulation and methods to reduce solar gain to achieve an internal living environment consistent with guidance.</p> <p>(3) Within not more than 12 months following the 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 eligible premises and submit, for approval by the relevant local planning authority, proposed designs for all eligible premises.</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 Sound Insulation and Noise Reduction for Buildings BS 8233 British Standards Institution (2014), Methods for rating and assessing industrial and commercial sound BS 4142 British Standards Institution (2014), Acoustic design of schools: performance standards BB93 Department for Education (2015) and Acoustics— Technical Design Manual 4032 Department for Health (2011) and other guidance as relevant.</p> <p>(5) If the relevant local planning authority does not approve the receptor based mitigation design for a main residence that is an eligible premises because it considers</p>	

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>internal living conditions would be unacceptable, the undertaker shall offer to buy the premises from the owner at its open market value and pay reasonable moving expenses, fees and costs incurred by the owner.</p> <p>(6) 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 commissioned before the commencement of dual runway operations, or the year in which the premises is forecast to be an eligible premises, whichever is later.</p> <p>(7) Subsequent to the commencement of dual runway operations the undertaker and the relevant local planning authority shall review actual noise levels experienced by premises affected by the operation of the airport, at least annually, to identify additional eligible premises. With regard to any additional eligible premises the undertaker shall offer, design, install and commission a package of measures to achieve an internal living environment consistent with guidance as soon as reasonably practicable.</p>	
R19 (Airport operations)	<p>Sub-paragraph (1) add the following "or a passenger throughput of 80.2million passengers per annum."</p> <p>Sub-paragraph (4) delete "or (b) as agreed in writing between the</p>	(1) From the date of the commencement of dual runway operations, the airport may not be used for more than 389,000 aircraft movements per annum or a passenger throughput of 80.2million passengers per annum.	The ExA's position is set out in Table D5 in Appendix D.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
	undertaker and the Secretary of State (following consultation with the CAA and CBC).”	(4) Sub-paragraph (3) does not apply and the repositioned northern runway may be used in one or both of the ways stated in that sub-paragraph where the main runway is temporarily non-operational by reason of an accident, incident or structural defect or when maintenance to the main runway is being undertaken.	
R20 (Surface access)	Add number (1) to start and add additional sub-paragraphs (2) and (3).	<p>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).</p> <p>(2) First use of the following airport facilities shall not be permitted until the mode shares set out below have been demonstrated to have been achieved in the Annual Monitoring Report unless otherwise permitted by CBC.</p> <p>a) At least 54% of passengers travelling to the airport used public transport in the monitored year. Should this public transport mode share not be achieved then the Undertaker shall not use the following:</p> <ul style="list-style-type: none"> • Simultaneous operational use of the northern runway; and • Pier 7 and associated stands. 	Parties' positions are set out in Table D5 in Appendix D and the ExA's considerations are set out in paragraphs 5.3.52 to 5.3.80 and 22.4.6 to 22.4.7 of this Report.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>b) At least 55% of passengers travelling to the airport used public transport in the monitored year. Should this public transport mode share not be achieved then the Undertaker shall not use the following:</p> <ul style="list-style-type: none"> • The South Terminal Hotel Phase 2 on the former car park H; and • The use of multi storey car park Y. <p>c) Not more than 44.9% of staff travelling to the airport were car drivers in the monitored year. Should this car driver mode share be exceeded then the Undertaker shall not use the South Terminal Office (on former car park H).</p> <p>(3) Prior to submission of the first Annual Monitoring Report the Transport Forum Steering Group decision making process must be agreed in writing by CBC in consultation with National Highways, Network Rail, Surrey County Council and West Sussex County Council.</p>	
R31 (Construction sequencing)	Retain sub-paragraphs (1) and (2). Delete sub-paragraph (3) and revise.	(3) Prior to the commencement of the authorised development, the undertaker must prepare and provide to Thames Water Utilities Limited a development phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and ten years after the commencement of dual runway operations.	The ExA's consideration is set out in paragraphs 11.3.30 to 11.3.35 of this Report.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>(4) The details in the plan provided pursuant to subparagraph (3) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book.</p> <p>(5) The commencement of Work No 44 (wastewater treatment works) must not take place until and unless Thames Water Utilities Limited confirm in writing within two years of the making of this Order that following review of the development phasing plan its infrastructure will not be able to accommodate the additional foul water flows for the ten-year period after the commencement of dual runway operations.</p> <p>(6) The commencement of dual runway operations must not take place until either —</p> <p>(a) The development phasing plan has been approved in writing by Thames Water Utilities Limited, or;</p> <p>(b) (i) Work No. 44 (wastewater treatment works) has been completed; and</p> <p>(ii) an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales)</p>	

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		Regulations 2016 for the operation of Work No. 44 (wastewater treatment works).	
R36 (Thames Water phasing plan)	Delete all.		The ExA's consideration is set out in paragraphs 11.3.30 to 11.3.35 of this Report.
R37 (Car parking spaces)	Retain only "37.—(1) Notwithstanding the provisions of Class F of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations", delete all subsequent text and replace	37.—(1) Notwithstanding the provisions of Class F of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations (or any order revoking and re-enacting that Order with or without modification), no additional car parking shall be provided within the Order limits unless otherwise agreed by CBC (2) In paragraph (1) "additional car parking" means – (a) the provision of more than 53,260 car parking spaces or; (b) allowing the parking of more than 53,260 cars. (3) 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 and cars parked within the Order limits.	The ExA's consideration is set out in paragraphs 5.3.81 to 5.3.91 and 22.4.8 of this Report.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>(4) In this requirement “car parking spaces” means space or spaces available for all car parking products provided by the undertaker including self-park, block-park, valet parking, staff parking and any other parking types used by airport passengers and staff within the Order limits.</p> <p>(5) In paragraph (2) the number “53,260” includes a maximum of 47,180 car parking spaces for passengers or a maximum of 47,180 passengers’ cars, as appropriate.</p>	
R39 (Tree balance statement)	Revisions and insertions to the following sub paragraphs (1), (2), (3) and (4)(b)	<p>39.— (1) On or before commencement of dual runway operations, and on the third, sixth and ninth anniversaries of that commencement, a tree balance statement must be submitted to CBC for approval.</p> <p>(2) The tree balance statement referred to in sub-paragraph (1) must follow the methodology set out in Policy CH6 of the Crawley Borough Council Local Plan 2015-2030 and the accompanying Green Infrastructure SPD 2016, and must include—</p> <p>(3) In the event that the relevant tree balance statement identifies that the total number of trees that has been provided as part of the authorised development is less than that required by the application of the CBC tree replacement requirement, the undertaker must pay the tree mitigation contribution to CBC within 60 days of the approval of the tree balance statement by CBC under sub-paragraph (1).</p>	Parties’ positions are set out in Table D5 in Appendix D. The ExA agrees with the LePAs’ views and recommends that the rDCO contains its amendments.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
		<p>(4) In this requirement—</p> <p>(b) “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 formula to be paid to CBC and used towards the provision of tree planting and maintenance in the borough of Crawley or within the area of the host authority which is a district council.</p> <p>(c) “tree mitigation contribution formula” means the formula as set out in the CBC Green Infrastructure Supplementary Planning document or any other document replacing it containing a formula for the payment of contributions containing a formula for the payment of contributions towards providing replacement trees.</p>	
Schedule 9 – Protective Provisions			
Part 3 – For the Protection of National Highways Paragraph 18	Paragraph 18 – delete all.	<p>Indemnity</p> <p>18. The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 14 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.</p>	Our consideration is set out in Table D4 in Appendix D.

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
<p>Part 6 – For the Protection of Thames Water Utilities Limited</p> <p>Paragraph 10 (5), (6) and (7)</p>	<p>Delete all of sub-paragraph (5) of paragraph 10.</p>	<p>(5) The undertaker must not commence any works of removal or diversion of TWUL's apparatus carried out in accordance with paragraph 6 or any works under paragraph 8 unless and until TWUL is satisfied that the undertaker has first provided the bond and TWUL has confirmed the same to the undertaker in writing.</p> <p>(6) The undertaker must maintain such bond for the construction period of such works from the proposed date of commencement of construction of those works.</p> <p>(7) The total amount payable by the undertaker pursuant to paragraphs 10 and 11 of this Part of this Schedule shall not exceed £20 million per event (and such cap will rise in line with the Consumer Prices Index rate of inflation).</p>	<p>Our consideration is set out in Table D4 in Appendix D.</p>
Schedule 11 – Procedures for Approvals, Consents and Appeals			
<p>Part 1 (GENERAL PROCEDURE)</p>	<p>Delete from 1 (1) "(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)"</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, the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.</p>	<p>An alternative discharging authority is not required under the ExA's rDCO.</p>
<p>Part 2 (PROCEDURE FOR NOISE PLANS)</p>	<p>Delete all of Part 2.</p>		<p>In the absence of an alternative discharging authority, Part 2 of Schedule</p>

Provision	Change recommended to final dDCO [REP10-004]	Wording in the ExA's rDCO (Appendix E)	ExA's views
			11 is no longer needed.
Schedule 12 - Non-Highway Works for which Detailed Design Approval is Required			
		Addition in table of – Work No. 32 - Works to remove existing car parking at North Terminal Long Stay car park and construct a decked car parking structure.	Our consideration is set out in Table D4 in Appendix D.
Schedule 14 - Documents to be Certified			
	Delete the following – “noise envelopment document ES Appendix 14.9.7: The Noise Envelope (Doc Ref. 5.3) 5 noise insulation scheme document ES Appendix 14.9.10: Noise Insulation Scheme (Doc Ref. 5.3) 4”		The deleted certified documents are not required under the ExA's rDCO.

22.6. LEGAL AGREEMENTS AND OTHER CONSENTS

- 22.6.1. Section 1.7 above confirms that by the end of the Examination the Applicant had entered into a s106 agreement while Framework Agreements had been concluded with both NH and Network Rail (NR).

SECTION 106 AGREEMENT

- 22.6.2. The agreed s106 agreement [REP9-102] was dated 22 August 2024 and signed by GAL, West Sussex County Council (WSSC), Crawley Borough Council (CBC), Reigate and Banstead Borough Council (RBBC) and Surrey County Council (SCC).
- 22.6.3. The s106 agreement was accompanied by an EM [REP9-106]. It explains how WSSC, CBC, RBBC and SCC represent the wider JLA group, but these are the local authorities to whom obligations are directly due under the s106 agreement. The EM provides background to the agreement, explains the approach to securing contractual mitigation for the Proposed Development, sets out the legal and policy tests and provides a summary of the substantive commitments in the s106 agreement. It also addresses the extent to which the Applicant considers that the relevant legal and policy tests are met.
- 22.6.4. A Joint Position Statement between GAL and the JLAs [REP9-123] explains how the Applicant and the JLAs characterise the agreement in the wider context of the Examination. It also provides an overview of the main provisions of the finalised s106 agreement, although to fully understand the obligations reference should be made to the agreement itself [REP9-102] and the EM [REP9-106].
- 22.6.5. The mitigation measures which are required to make the application acceptable in planning terms would largely be secured through the DCO. There are, however, various obligations which the Applicant and the JLAs have agreed are more appropriately secured as contractual obligations under a s106 agreement. Nevertheless, through ISHs we sought the views of IPs about where obligations are most appropriately secured.
- 22.6.6. We find that while it might have been possible for some of the obligations within the s106 agreement to have been addressed through requirements, we are content that the overall approach of the Applicant and JLAs is in line with paragraph 55 of the National Planning Policy Framework (NPPF) which states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. This is particularly so in respect of positively worded obligations that require the payment of monies.
- 22.6.7. We have also had regard to paragraph 57 of the NPPF which advises that planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
- 22.6.8. In respect of the requirement that obligations must be fairly and reasonably related in scale and kind to the development Action Point 27 from ISH9 was for the Applicant to provide justification for the figures for the financial contributions in the draft s106 agreement schedules. The Applicant's response [REP8-111] records that the updated s106 EM provided at D9 would include justification for the final values of the financial contributions secured by the s106 agreement. An initial summary justification was provided at D8 although the updated EM at D9 did not provide further clarification.

FRAMEWORK AGREEMENTS

- 22.6.9. NH confirmed in its closing statement [REP9-160] that it had completed a Framework Agreement with the Applicant. Nevertheless, NH also confirmed that as there were unresolved matters its objection remained. As a copy of the Framework Agreement has not been provided to the Examination no account can be taken of it but the outstanding matters are addressed in Chapter 5.
- 22.6.10. NR also confirmed in its D10 submission [REP10-031] that it had entered into a Framework Agreement with the Applicant and the withdrawal of its objection to the application. We have not been provided with a copy of this Framework Agreement and therefore cannot take its contents into account in our Recommendation.

OTHER CONSENTS AND LICENCES

- 22.6.11. In addition to the DCO, the Applicant has identified other consents and licences which are required before work could commence and with which compliance is necessary before the construction, operation or maintenance of the Proposed Development. These are included in Other Consents and Licences [REP8-092]. As acknowledged by the Applicant, the list is not exhaustive as the consents, permits and licences required depend on the finalisation of design and construction details and engagement with the consenting authorities. Consequently, there may be further approvals required. Without prejudice to the exercise of discretion by other decision makers, there are no obvious impediments to the delivery of the Proposed Development arising from these consents. Additionally, we are not aware of any reason to believe that any relevant necessary consents, permits and licences would not subsequently be granted.

22.7. ExA's CONCLUSION ON DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

- 22.7.1. The main outstanding matters related to the DCO at the end of the Examination were requirements. The relevant tests for the imposition of requirements are set out in paragraph 4.9 of the ANPS, specifying that they should be necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects.
- 22.7.2. The position at the close of the Examination was that the Applicant did not accept the changes we were recommending to their final dDCO [REP10-004]. However, we have concluded that, based on the Applicant's final dDCO, when considered alongside the obligations in the signed s106 agreement, we cannot recommend to the SoS that the Order is made. This is because, the Applicant's proposed mitigations would not, in our view, adequately overcome the harm we have identified.
- 22.7.3. However, with the ExA's proposed changes to the Applicant's dDCO, in the form of the rDCO we are able to recommend to the SoS that the Order is made. Consequently, we put two versions of the DCO to the SoS. The first is the Applicant's final dDCO which can be found in the Examination Library [REP10-004] while the second is the rDCO which can be found at Appendix E. Should the SoS be minded to accept our recommendation it should be noted that not all of the proposed changes in the rDCO have been shared with the Applicant or other Interested Parties.

23. SUMMARY OF FINDINGS AND CONCLUSION

23.1. INTRODUCTION

- 23.1.1. Section (s) 104 of the Planning Act 2008 (PA2008) sets out the matters to which the Secretary of State (SoS) must have regard in deciding an application, and s105 of the PA2008 applies to an application where s104 does not apply. Where there is a relevant national policy statement s104 applies. In both cases the SoS must have regard to Local Impact Reports (LIR), prescribed matters, and any other matters which the SoS thinks are both important and relevant to their decision.
- 23.1.2. For the reasons set out in Chapter 3 we have considered the Proposed Development under s105 of the PA2008. The Aviation National Policy Statement (ANPS) only has effect in relation to the delivery of additional airport capacity through the provision of a London Heathrow North West Runway. Nevertheless, the contents of the ANPS are both important and relevant considerations in the determination of an application for development consent for other airport development, particularly where that development relates to London or the south-east of England (as in this case).
- 23.1.3. The works to improve the M23/ A23, the North and South Terminal junctions and Longbridge roundabout are subsidiary to the airport works and are a Nationally Significant Infrastructure Project in their own right. Section 104 of the PA2008 applies to the highway elements of the Proposed Development although the highway works are subsidiary to the airfield works. Consequently, the National Networks National Policy Statement (NNNPS) is also an important and relevant consideration in the determination of the application (where appropriate).
- 23.1.4. In addition, the ExA also took into account the submitted LIRs and any other matters which we considered were important and relevant.

23.2. FINDINGS

- 23.2.1. Chapter 20 contains our conclusions on the Case for Development Consent. We have concluded in Chapter 4 that the Proposed Development would constitute the best use of an existing runway and that there is a nationally recognised need for aviation development, particularly in the south-east of England. In our view the partial fulfilment of such need that would be provided by the Proposed Development weighs moderately in favour of the Proposed Development. We also note that Gatwick Airport supports a significant level of local employment, and that the potential economic benefits from the Proposed Development would undoubtedly result in both local and national economic growth.
- 23.2.2. On the other hand, we also found that the Proposed Development would cause harm in various areas. Of particular significance is that we have found, in the light of the Finch case, that the scale of greenhouse gas (GHG) emissions arising from the Proposed Development would be such that it is likely that there would be an impact which would be contrary to the ANPS. Our judgment is that it is likely that, having taken account of the Jet Zero Strategy, the Proposed Development would have a material effect on achieving carbon targets. Harm has also been found in matters of traffic and transport, ecology, noise, the water environment, health and wellbeing, and landscape and townscape. Great weight must also be given to harm to heritage assets.

- 23.2.3. We have also found that without the Proposed Development the airport could grow to 61 million passengers per annum and above with no planning controls on the growth of the airport, other than an agreement under s106 of the Town and Country Planning Act 1990 based on historic obligations and night flight restrictions imposed by Government (the Department for Transport, July 2021).
- 23.2.4. The Applicant's draft Development Consent Order (dDCO) would introduce a wider range of controls than the existing position. In our view under the dDCO moderate levels of harm would be caused to matters of GHG emissions, traffic and transport, and noise, along with a little harm to matters relating to the water environment and health and wellbeing. In this scenario the harm that the Proposed Development would cause would outweigh the benefits and on that basis we recommend refusal.
- 23.2.5. By contrast, the recommended Development Consent Order (rDCO) would introduce a wide range of detailed planning controls on the operation of the Proposed Development, such that harm levels would be reduced in matters of traffic and transport and controlled in relation to noise, the water environment and health and wellbeing. Additional benefits would also result from good design. Under this scenario the benefits of the Proposed Development would outweigh harm and we recommend approval. Should the SoS be minded to accept our recommendation it should be noted that not all of the proposed changes in the rDCO have been shared with the Applicant or other Interested Parties.
- 23.2.6. In terms of the Habitats Regulations Assessment, the ExA is satisfied on the basis of the information provided that Adverse Effects on Integrity on all relevant sites and their qualifying features can be excluded.
- 23.2.7. The ExA has considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the Proposed Development. The ExA is satisfied that the legal interests in all the plots of land included in the Book of Reference and shown on the Land Plans would be required for, or to facilitate or be incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the associated development, identified in the application would be needed for that purpose. The requirements of s122(2)(a) and (b) of the PA2008 are, therefore, met. The land to be taken is no more than is reasonably required and the proposed land take is proportionate. The Applicant has a clear idea of how it intends to use the land and funds are available for the implementation of the Proposed Development. This recommendation is subject to the Crown giving consent for the CA and TP of Crown land in accordance with s135, prior to the Secretary of State's (SoS) decision.
- 23.2.8. The ExA has had regard to the provisions of the Human Rights Act 1998, in particular, Article 6, Article 8 and Article 1 of the First Protocol. The ExA is satisfied that the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development is proportionate and strikes a fair balance between the rights of the individual and the public interest and that compensation would be available in respect of any quantifiable loss. There is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.
- 23.2.9. The ExA has also had regard to the Public Sector Equality Duty (PSED) throughout the Examination and in producing this Report. The PSED is considered in Chapter 21 of the Report and Table A5, Appendix A. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not

share a protected characteristic. On that basis, the ExA is satisfied there would be no breach of the PSED.

- 23.2.10. With regard to all other matters and representations received, the ExA is satisfied that there are no important and relevant matters that would individually or collectively lead to different recommendations from those below.

23.3. RECOMMENDATIONS

- 23.3.1. As outlined in Chapter 20 and above, the ExA have come to two different recommendations.
- 23.3.2. Firstly, for all of the above reasons, the ExA finds that the Proposed Development, with the Applicant's dDCO fails to meet the tests in s105 and s104 of the PA2008 and recommends that development consent should not be granted.
- 23.3.3. Secondly and conversely, with the rDCO, and subject to the necessary Crown approvals being granted, adverse effects arising from the Proposed Development would not outweigh its benefits. In this scenario the ExA is thus satisfied that the Proposed Development would meet the tests in s105 and s104 of the PA2008 and that the case for development has been made. Accordingly, the ExA recommends that the SoS makes the Gatwick Airport (Northern Runway Project) Development Consent Order in the form attached at Appendix E.
- 23.3.4. In Chapter 3 we noted that the Legal Partnership Authorities considered that the application should be decided against s104 of the PA2008 (as opposed to s105 and s104), but that both they and the Applicant agreed that whichever interpretation is adopted would not materially affect the outcome of the decision. We agree with that view for both of our recommendations.
- 23.3.5. While the works to improve the M23/ A23, the North and South Terminal junctions and Longbridge roundabout are subsidiary to the airfield works, the NNNPS does have effect in relation to such works and consequently we have considered those elements of the application having regard to s104(2) of the PA2008.