



Department
for Transport

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27 February 2025

Dear Sir/Madam,

PLANNING ACT 2008

APPLICATION FOR THE GATWICK AIRPORT NORTHERN RUNWAY PROJECT DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:
 - The report dated 27 November 2024 (“the Report”) of the Examining Authority (“ExA”) comprised of Kevin Gleeson BA MCD MRTPI, Philip Brewer PhD BSc (Hons) MIOA, Helen Cassini BA (Hons) DipTp MRTPI, Jonathan Hockley BA (Hons) DipTp MRTPI and Neil Humphrey BSc (Hons) CEng FICE MTPS who conducted an Examination into the application made by Gatwick Airport Limited (“the Applicant”) for the Gatwick Airport (Northern Runway Project) Development Consent Order (“the Application”) under section 37 of the Planning Act 2008 as amended (“the 2008 Act”);
 - The responses to the further consultations undertaken by the Secretary of State following the close of the Examination; and
 - Late representations received by the Secretary of State following the close of the Examination.
2. Published alongside this letter on the Planning Inspectorate website is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the Report”). The ExA’s recommended changes to the draft Order can be found in Table 22.1 of the Report. All “ER” references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form “ER XX.XX.XX” as appropriate.

THE APPLICATION

3. The Application was accepted for Examination on 3 August 2023. The Examination began on 27 February 2024 and was completed on 27 August 2024 [ER 1.5.3]. The Examination was conducted based on written and oral submissions submitted to the ExA and by a series of hearings. The ExA also undertook an accompanied site inspection and five unaccompanied site inspections [ER 1.5.8 - 1.5.12].
4. The location of the Proposed Development lies largely within the administrative area of Crawley Borough Council (“CBC”), with small parts of the site 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 (“WSCC”), with small parts in the north being located in the administrative area of Surrey County Council (“SCC”) [ER 1.3.3]. The Proposed Development is also within proximity to several other local authorities [ER 1.3.4]:
 - 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.
5. The Order as applied for would grant development consent for alterations to the existing northern runway and lifting of current restrictions of its use to enable dual runway operations [ER 1.3.9], 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 [ER 1.1.3]. The elements comprising the scheme (collectively referred to as “the Proposed Development”), as set out at [ER 1.3.13] and summarised in paragraph 5.2.2 of [REP9-026] include:
 - repositioning of the existing northern runway 12 metres north (measured from the centreline of the existing northern runway).
 - airfield works including repositioning and resurfacing of existing and constructing new taxiways, aircraft stands and an access track between the two runways and the constructing and reconfiguring of aircraft stands.
 - works to airfield support facilities including constructing a new pier, works to power facilities, and relocating the fire training ground and the Centre Area Recycling Enclosure (“CARE”) facility.
 - works and extensions to the existing airport terminals (north and south).
 - works to existing and construction of new hotels and offices.
 - works to existing and construction of new car parks.

- surface access improvements, including active travel improvements and works to the M23 spur, the A23 London Road, Longbridge Roundabout, and the terminal roundabouts and forecourts. Further details on the highway improvement works associated with the Proposed Development are summarised at [ER 5.2.15].
- water treatment works and surface water and foul water improvements; and
- environmental mitigation works including establishing habitat enhancement areas, flood compensation areas and areas of replacement open space.

Changes to the Application

6. During the Examination, the Applicant made three formal change requests in respect of the Proposed Development on 13 February, 26 June and 15 July 2024. The changes sought within the requests were to allow for an extension to the design parameters for the southern extension to the north terminal departure lounge; a change in purpose and reduction in height of the CARE facility; a revision to proposed water treatment works; the provision of an on-airport Wastewater Treatment Works; and a revision to facilitate a temporary access point and associated works at the Holiday Inn. The Secretary of State is minded to agree with the ExA's acceptance of these change requests and agrees that they do not constitute a material change to the Proposed Development [ER 1.6.4 - 1.6.16].
7. In addition, the Applicant made several changes to the application documents to reflect discussions and agreements made during the Examination. The Secretary of State is minded to agree that the changes to the application documents, additional information submitted and other associated documentation, such as updates to the Environmental Statement ("ES") are contained within the Navigation Document which provides a full record of all documentation submitted into the Examination Library [ER 1.6.1 - 1.6.3]. She has had regard to this information in determining her current position on the Application.

SUMMARY OF EXA'S RECOMMENDATION

8. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings [ER 1.9.1]:
 - The Need for the Proposed Development
 - Traffic and Transport
 - Noise and Vibration
 - Air Quality
 - Greenhouse Gas Emissions
 - Climate Change

- Socioeconomics
 - Water Environment
 - Landscape and Townscape
 - Historic Environment
 - Ecology
 - Health and Wellbeing
 - Land Use and Recreation
 - Other Matters (including consideration of alternatives, geology and ground conditions, major accidents and disasters, resource and waste management, and cumulative effects)
 - Good Design
 - Habitats Regulations Assessment
 - Compulsory Acquisition and Related Matters
 - Draft Development Consent Order and Related Matters.
9. For the reasons set out in the Report, the ExA made two different recommendations to the Secretary of State [ER 23.3.1].
10. Firstly, the ExA found that the Proposed Development as reflected in the DCO proposed by the Applicant fails to meet the tests in sections 105 and 104 of the 2008 Act and recommended that development consent should not be granted [ER 23.3.2].
11. Secondly, that subject to the necessary Crown approvals being granted, consent could be granted for the DCO recommended by the ExA (“the rDCO”) as adverse effects arising from the Proposed Development would not outweigh its benefits. The ExA is satisfied that with the rDCO the Proposed Development would meet the tests in sections 104 and 105 of the 2008 Act and the case for development consent has been made [ER 23.3.3]

SUMMARY OF SECRETARY OF STATE’S CONSIDERATION

12. Based on the information available, the Secretary of State is currently **minded to grant consent** for the Proposed Development based on the principles of the requirements set out by the ExA.
13. Given the ExA’s report is novel in that it recommends a revised DCO, which includes a range of additional controls on the operation of the Proposed Development and not all of these measures were considered during the Examination, the Secretary of State is only in a position to issue a ‘minded to’ grant consent decision and to allow some additional time for all parties to provide views on the ExA’s recommended revised requirements (noting the responses to the Secretary of State’s consultation letters dated 9 December 2024 and 3 January 2025), prior to a final decision. The Secretary of State considers that she is therefore not yet in a position to make a final decision on whether to accept the ExA’s recommendations.

14. Whilst the Secretary of State has sought initial comments on the ExA's revised requirements, the Secretary of State considers that by publishing the ExA's Report, this can be used by the Applicant and Interested Parties to enable them to respond as requested below.

- Noting the responses received to the Secretary of State's consultation letters dated 9 December 2024 and 3 January 2025, the Applicant in the first instance, is being provided with an opportunity to submit comments on the ExA's recommended requirements in light of reviewing the ExA's Report, the Secretary of State's initial views below and the responses from Interested Parties to the consultation.

15. In addition, a final decision to approve the Proposed Development is subject to:

- The Secretary of State being satisfied that, as the relevant authority responsible for discharging the duty brought forward by the Levelling Up and Regeneration Act 2023 ("LURA") which includes a provision at section 245(5) to amend section 85 of the Countryside and Rights of Way Act 2000 ("CRoW Act") in relation to National Landscapes ("NL"), this duty is complied with. The Secretary of State notes the response from various parties to her letter of 3 January 2025 and encourages Interested Parties to reach agreement on what might be needed to meet this duty and provide any agreed provisions to be included in the Order accordingly.
- The Secretary of State notes that in relation to the design of the Proposed Development, that Building Research Establishment Environmental Assessment Method ("BREEAM") certification has not been pursued for sustainability and energy assessment categories for the built environment. Paragraph 4.3.2 of the Airports National Policy Statement ("ANPS") states that sustainable design is an important and relevant consideration in decision making, and 154 (b) of the National Planning Policy Framework ("NPPF") (2023) encourages good, sustainable design of buildings as a tool to reduce greenhouse gas emissions. Further, local policy (CBC Strategic Policy SDC1) establishes that BREEAM 'excellent' for energy should be achieved in relation to the built environment. In line with the sustainability aims of the Proposed Development, the Secretary of State invites the Applicant to set out what further measures could be brought forward to prioritise sustainable design and in turn reduce carbon emission during construction and operational phases of the project.
- Compliance with the assimilated Regulation (EU) No. 598/2014 of the European Parliament and of the Council of 16 April 2014 ("Regulation 598"). This requires the Secretary of State, as the competent authority, to ensure rules and procedures are followed before introducing a noise-related operating restriction at an airport, in accordance with the International Civil Aviation Organisation's Balanced Approach to Aircraft Noise Management. This matter is separate to the Planning Decision, but the outcome of this assessment will be a material consideration for the Planning Decision. Once the final noise operating provisions have been agreed, the Secretary of State will need to ensure compliance with the requirements of Regulation 598.

16. When providing a response, the Secretary of State requests that information is provided on the ExA's revised requirements and the outstanding matters (as set out above) only and that arguments previously made are not repeated.
17. Whilst the Secretary of State has considered the Report in full, this letter sets out the Secretary of State's consideration of the key areas of the Report that relate to the rDCO and where she is seeking additional assurances. Any initial conclusions in respect of these aspects of the Proposed Development set out in the letter are preliminary, and do not necessarily represent the Secretary of State's full or final position on those matters. The Secretary of State will set out her full consideration of the remaining matters in her final decision. This will include Air Quality, Greenhouse Gas Emissions, Climate Change, Socioeconomics, Landscape and Townscape, Historic Environment, Ecology, Health and Wellbeing, Land Use and Recreation, Other Matters (including consideration of alternatives, Geology and Ground Conditions, Major Accidents and Disasters, Resource and Waste Management, and Cumulative Effects), Design, the Habitats Regulations Assessment and Compulsory Acquisition. The Secretary of State's final decision will be based on full consideration of all relevant matters, including responses following this letter. The Secretary of State will need to consider any representations received as a result of this letter and may reconsider matters set out in the ExA's Report before she makes her final decision as well as giving full consideration to the other matters not set out in this letter.

Assessment of the Planning Act 2008, Relevant Policies and National Policy Statements

18. The Secretary of State is content that the Proposed Development is a Nationally Significant Infrastructure Project ("NSIP") in accordance with section 14(1)(i) and section 23(1)(b), (4), (5) and (6) of the 2008 Act, as it involves the alteration of an airport where the effect is to increase air passenger transport services for at least 10 million passengers per year [ER 1.1.4]. Furthermore, the Proposed Development includes works to the highway, which are classed as an NSIP in their own right under s14(1)(h) and 22(1)(b), (3) and (4) of the 2008 Act, as they involve the alteration of a highway in England to which National Highways is the highway authority, where the speed limit is 50mph or over, and the works exceed the 12.5 hectare limit that applies to that category of road [ER 1.1.5].
19. The matter of whether the Proposed Development should be assessed against section 104 or section 105 of the 2008 Act was given consideration during the Examination with parties having differing views [ER 3.5.1- 3.5.7]. The ExA concluded that the primary focus of the Proposed Development is the airfield works with the highways works only being necessary as a consequence of this, although they noted the highway works are indivisible, and they are purely required to facilitate the Proposed Development [ER 3.5.8]. The ExA's view is that the starting point in policy terms for the Proposed Development is therefore the ANPS, and as this does not have effect in relation to the Proposed Development the application falls to be considered under section 105 of the 2008 Act. The ExA noted that the ANPS will be an important and relevant consideration to the determination of the application, given the airport lies in the south-east of England and is considered to be a London airport [ER 3.5.11].

20. The National Networks National Policy Statement (“NNNPS”) will be an important and relevant consideration and will necessarily inform the formal determination of the highways elements of the Proposed Development [ER 3.5.12]. The ExA further concluded that section 104 of the 2008 Act will apply to the highways elements of the Proposed Development [ER 3.5.12 - 3.5.13], however, the ANPS is the primary policy against which the Proposed Development as a whole should be tested [ER 3.5.13].
21. The Secretary of State agrees and notes that as the Application was accepted for Examination prior to the designation of a revised National Networks National Policy Statement in May 2024 (“2024 NNNPS”), the Secretary of State is satisfied that the NNNPS continues to have 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 and so like the ExA, the Secretary of State has had relevant account of this, and all references are to the 2015 NPS where unless clearly otherwise stated [ER 2.3.6].
22. The Secretary of State notes the argument presented by the Legal Partnership Authorities (“LePAs”), comprising of CBC, HDC, MSDC, WSCC, RBBC, SCC and ESCC, citing the Secretary of State for Energy Security and Net Zero’s decision in the Net Zero Teesside Order 2024 [ER 3.5.14]. The Secretary of State agrees with the ExA’s conclusion at ER 3.5.14 that the consideration of the Proposed Development as a whole under s105 of the 2008 Act is consistent with the precedent set by other NSIPs, such as the proposal for Sizewell C, for example. The Secretary of State also notes that in either case, both the Applicant [ER 3.5.15] and LePAs [ER 3.5.16] considered that determination under section 104 or section 105 of the 2008 Act would not affect the final outcome and like the ExA, the Secretary of State agrees [ER 3.5.17].

Associated Development

23. A number of parties raised concerns regarding the inclusion of hotels, an office and additional on-airport parking at the hotels within the DCO [ER 3.5.21]. Section 115 of the 2008 Act provides that, in addition to the development for which development consent is required, consent may also be granted for “associated development”, defined at s115(1)(a) of the 2008 Act as development which is associated with the Proposed Development [ER 3.5.18]. The Ministry of Housing, Communities and Local Government produced guidance on what constitutes associated development, stating at paragraph 5 that it is for the Secretary of State to decide on a case-by-case basis whether or not development should be treated as associated development. The core principles the Secretary of State will take into account are outlined at ER 3.5.19. The associated development within the Proposed Development includes the following outlined at ER 3.5.20:
- 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).

24. The ExA considered that Work Nos. 38 to 44 are provided to address the impacts of the Proposed Development and are associated development. The ExA concluded in relation to the hotels and car parks, (Work Nos. 28 (c), 30 (b), 31 (e), 32, 33 and 34), that these are subordinate to, and would cross-subsidise the Proposed Development, although they are not only necessary for this purpose [ER 3.5.25]. The hotels (Work Nos. 26, 27, 28 (a), and 29) are considered by the ExA to be subordinate to, and would cross-subsidise the Proposed Development, although not only for this purpose. Furthermore, the ExA stated that given the proposed number of passengers the Proposed Development would cater for, the additional four hotels are proportionate to the nature and scale of the Proposed Development [ER 3.5.26]. The ExA concluded that Work No.28(b) (the office building) would support the operation of, be subordinate to, and be proportionate to the nature and scale of the Proposed Development. requirement 34 of the DCO ensures that the offices would be occupied by relevant, aviation-based occupiers and this building would therefore constitute associated development [ER 3.5.27]. The Secretary of State agrees with the conclusions set out by the ExA on associated development, and that it is reasonable the associated development requested by the Applicant is associated with the Proposed Development [ER 3.5.28] The Proposed Development accords with section 115 of the 2008 Act [ER 3.5.28].

25. For the avoidance of doubt, the Secretary of State has had regard to and agrees with the consideration by the ExA of the relevant legislation identified in ER 2.2.1 - 2.2.7, the national policy statements identified in ER 2.3.1 - 2.3.7 and other relevant Government policies and strategies identified as relevant by the ExA in Chapter 2 of the Report [ER 2.4.1]. She has also had regard to the Local Impact Reports (“LIR”) prepared by the Joint West Sussex Local Authorities (“JWSLA”), Joint Surrey Councils (“JSC”), ESCC, KCC and SDC [ER 2.5.1].

26. The Secretary of State is aware that a new version of the NPPF was published on 12 December 2024. The Secretary of State has considered the policies in the updated NPPF and considers that the modifications do not materially affect the policy in the NPPF published 19 December 2023. The Secretary of State considers that the updated NPPF would not support a different outcome in this case. The references in this letter and the Report are to the NPPF published 19 December 2023.

27. The Secretary of State has considered the environmental information associated with this Proposed Development as defined in regulation 3(1) of Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”). In issuing this letter, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the Application. Having considered the ES and environmental information provided, the Secretary of State considers that this information will be sufficient to enable her to reach the conclusions drawn in this letter in compliance with the requirements of the 2017 Regulations and that changes made by the Applicant to the ES documentation and the three

change requests do not individually or cumulatively undermine the original scope and assessment of the ES [ER 2.6.4 - 2.6.5]. Furthermore, as the Scoping Report did not identify any likely significant effects on another European Economic Area State, the Secretary of State is satisfied that transboundary effects do not need to be considered further with the ES [ER 2.8.1].

The Principle of the Proposed Development and the Need Case

28. The Secretary of State notes that the ExA considered this matter in detail at the Examination and is set out at Chapter 4 of the Report [ER 4.1.1]. A range of issues were considered by the ExA [ER 4.1.2].

Policy Background and Compliance

29. The ANPS has effect in relation to the delivery of additional airport capacity through the provision of a Northwest Runway at Heathrow Airport (ANPS, paragraph 1.40). The ANPS does not have effect in relation to an application for development consent for an airport development not relating to the Heathrow Northwest Runway, although, the Secretary of State considers that the contents of the ANPS are important and relevant considerations in the determination of such an application, particularly where it relates to London or the South East of England (ANPS, paragraph 1.41).

30. Paragraph 1.39 of the ANPS outlines that the Government is supportive of airports beyond Heathrow making best use of their existing runways, recognising that the development of airports can have positive and negative impacts [ER 4.2.4]. This is reiterated in paragraph 1.29 of Beyond the Horizon, Making Best Use of Existing Runways (“MBU”). Paragraph 1.42 states that in light of the findings of the Airports Commission in 2013 on the need for more intensive use of existing infrastructure, 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 Airport Commission’s preferred choice of a Northwest Runway at Heathrow Airport.

31. The Jet Zero Strategy (“JZS”) sets out that the Government will support airport growth where it can be delivered within its environmental obligations, outlining that the Government’s existing policy framework for airport planning in England, the ANPS and MBU, have full effect as a material consideration in decision making for planning permission ER [ER 4.2.8]. The Government’s response to the Climate Change Committee (2024 Progress Report states with regards to airport expansion “the Government recognises a role for airport expansion where it provides economic growth and is compatible with our legally binding net zero target and strict environmental standards.”

Does the Proposed Development fall within the acknowledged policy support for the Making Best Use of Existing Runways (“MBU”), and whether it constitutes an “existing runway”

32. 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. The runway is certified by the Civil Aviation Authority (“CAA”). In 2019, the northern runway was used by 2,800 flights [ER 4.2.10]. The Proposed Development would allow the northern runway to be used on a full-time basis, concurrently with the southern runway, which at

present is not possible due to the spacing between the runways (as set out in the documents at paragraph 12.1.2 of REP1-062). The northern runway would be limited to departures only, and up to Code C sized aircraft.

33. Several Interested Parties, including Communities Against Gatwick Noise Emissions (“CAGNE”) and the LePAs, were of the opinion that the Proposed Development constituted a new runway, and could not comply with the MBU policy [ER 4.2.14]. The Applicant considered the scale of the development is entirely different from that which would be necessary to construct a full-length runway at Gatwick or Heathrow [ER 4.2.18], and that both the ANPS and MBU refer directly to the need to make more intensive use of existing infrastructure or airport capacity, of which the intended consequence would be for increased or better use of its runway(s) [ER 4.2.22].
34. The ExA stated 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 (southern) runway is in use primarily for historical and practical purposes, but equally the northern runway is used when the main runway is not available [ER 4.2.24]. The works as part of the Proposed Development are not minor, and in the ExA’s view would not fall within the remit of permitted development rights [ER 4.2.26], however, the ExA considered that the movement of the existing northern runway’s centreline by 12m would not constitute the creation of a new runway [ER 4.2.27], nor would the other works required (reconfiguration of taxiways, new pier and stands) [ER 4.2.30]. The Secretary of State is minded to agree with the ExA’s conclusion that the Proposed Development constitutes works to an existing runway [ER 4.2.32].

The Scale of the Proposed Development

35. CAGNE set out that the expectation of the MBU policy is that the majority of MBU based applications would be on a relatively local level. CAGNE noted that at paragraph 1.28 of the MBU, (in the context of airspace capacity) the likely increase in air transport movements (“ATM”s) through making best use of existing runways is relatively small (2% increase in ATMs without Heathrow expansion, 1% with Heathrow) [ER 4.2.33]. CAGNE highlighted that the 13 million passengers per annum (“mppa”) growth predicted by the Applicant for the Proposed Development would exceed the 11.8mppa assumed to be possible nationally under MBU up to 2050 [ER 4.2.35].
36. The Applicant considered that paragraph 1.24 of the Aviation Policy Framework (“APF”) and paragraphs 16.40-43 of the Airports Commission report encouraged MBU proposals of a significant scale. The Applicant highlighted the ATM increase promoted as part of the application for the London Luton Airport Expansion DCO exceeded that promoted in the Proposed Development and that both the ANPS and the MBU anticipate that some MBU applications may meet the NSIP threshold of an increase in capability of 10mppa [ER 4.2.36]. The Applicant highlighted paragraph 47 of the decision letter for the application for the Manston Airport DCO, which set out that the MBU policy does not limit the number of MBU airport developments that may be granted and does not include a cap on any associated increase in ATMs as a result of intensifying use at MBU developments [ER 4.2.37].

37. The ExA noted paragraph 1.42 of the ANPS, which 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 over 10mppa. [ER 4.2.39]. Further attention was drawn by the ExA to the planning permissions at Stansted, London City and Manston, which have been granted since the MBU policy was made. The ExA considered Stansted to be of particular relevance, allowing for an increase of 8mppa at that airport [ER 4.2.40]. Furthermore, both the Applicant [ER 4.2.36] and the ExA [ER 4.2.41] highlighted the inclusion of the Proposed Development as a capacity assumption, aligned with MBU policies, as part of the Jet Zero Modelling Framework. The Secretary of State is minded to agree with the ExA's conclusion that as the MBU policy does not include a cap or restriction of the size of the Proposed Development, accordingly, the scale of the Proposed Development falls within MBU policy [ER 4.2.42].

Whether it is Necessary to Demonstrate Need

38. Heathrow Airport Limited ("HAL") 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 effectively met by the Heathrow Northwest Runway ("NWR") scheme. HAL's opinion is that the Applicant must demonstrate that the Proposed Development complements, not threatens the future delivery of capacity via the NWR scheme, and that the demand to be served at Gatwick will be additional to, or different from, the additional hub capacity to be delivered by the expansion at Heathrow [ER 4.2.43]. Several Interested Parties re-iterated this position, considering that the ANPS does not provide the policy support for a proposed airport expansion outside of the NWR scheme [ER 4.2.48].

39. The Applicant is of the view that the ANPS identifies the need for a new runway at Heathrow, and for existing airports to make best use of their existing assets. It argues that paragraph 1.42 of the ANPS calls on applications to be considered on their own merits against the in-principle support for MBU, and that this position has been confirmed in the decided planning cases for Stansted and Manston [ER 4.2.53].

40. The ExA agreed that policy identifies the need for both a new runway at Heathrow and for existing airports to make best use of their existing assets, noting the Stansted and Manston planning decisions confirm that there is not a requirement for MBU developments to demonstrate a need for their proposals [ER 4.2.56]. However, the ExA considered that both Stansted and Manston are significantly different cases from the Proposed Development, due to the nature of the traffic utilising the airport, the scale and size of Gatwick (and the Proposed Development), and Gatwick's proximity to Heathrow and their overlapping catchment areas [ER 4.2.57 - 4.2.59]. The ExA agreed with HAL that there is a requirement for the Proposed Development to complement but not threaten the future delivery of hub capacity at Heathrow through the NWR scheme. It considered that while it is not necessary for the Applicant to demonstrate sufficient need for the Proposed Development, 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 NWR. [ER 4.2.59]. The Secretary of State is minded to agree with this conclusion.

Conclusion on Policy Considerations

41. The Secretary of State is minded to agree with the ExA that the works proposed by the Applicant to the airfield infrastructure would not constitute the construction of a new runway [ER 4.2.27 and 4.2.30]. The existing northern runway is certified by the CAA and handled 2,800 flights in 2019 [ER 4.2.10]. The works proposed would allow the northern runway to be used on a full-time basis, which is currently not possible [ER 4.2.13].
42. Furthermore, she is minded to agree with the ExA that the MBU policy does not include a cap or restriction of the size of the Proposed Development, and accordingly, the scale of the Proposed Development falls within the MBU policy [ER 4.2.42]. Paragraph 1.42 of the ANPS 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 over 10mppa [ER 4.2.39]. Furthermore, the ExA [ER 4.2.41] and Applicant [ER 4.2.36] both highlighted the inclusion of the Proposed Development as a capacity assumption aligned with MBU policies, as part of the Jet Zero Modelling Framework.
43. The ExA considered that there is not a requirement for MBU developments to demonstrate a need for their proposals [ER 4.2.56], however, given the scale and size of Gatwick (and the Proposed Development), and its proximity to Heathrow, the ExA considered that 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 NWR scheme at Heathrow, as supported by paragraph 1.42 of the ANPS [ER 4.2.59]. The Secretary of State is also minded to agree with this conclusion.

The Need Case

Need for Growth

44. In 2019, London's six primary commercial airports served 181 million passengers. The Airports Commission was set up to examine the scale and timings 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 any additional capacity should be met in the short, medium and long term. The results of the Commission's work were incorporated into the ANPS and recommended the NWR [ER 4.3.2]. Government forecasts, based on work undertaken as part of Jet Zero Modelling (2022) [ER 4.3.3] and the consultation on Sustainable Aviation Fuels (2023) [ER 4.3.4], assumed significant growth in air passenger demand [ER 4.3.5].
45. The Applicant stated that within the Jet Zero forecasts there is forecast to be an additional 42mppa in the London market by 2030, 84mppa by 2040 and 122mppa by 2050, relative to the 2019 baseline. Its view was that the NWR scheme could not be operational to meet the shortfall of capacity in 2030, and that the London airports would have a capacity of 210mppa in 2030 without expansion, well below the forecast increase in demand [ER 4.3.3].
46. The ExA recognised the long-term aviation capacity constraints, hence the policy support of the ANPS [ER 4.3.6]. The ExA agreed with the Applicant's argument that, in the context of the forecast increases in air passenger demand, the Proposed Development would deliver a reasonably modest increase in

capacity to meet this demand [ER 4.3.7]. The Secretary of State is minded to agree with this conclusion.

Capacity at London Airports/Heathrow and Gatwick Interlinkages

47. The Applicant considered that Gatwick is unique amongst London's airports due to its carrier make up of full service, low-cost, charter and regional carriers [ER 4.3.14]. The ExA concurred with this, highlighting that Gatwick is well established as the UK's second airport, and is set in a reasonably affluent catchment, with frequent, direct access to London [ER 4.3.27].
48. The low-cost carrier ("LCC") market is dominant at Gatwick, and the Applicant notes that the LCC growth is responsible for 73% of total growth in the London system since 2005, and the short-haul element of low-cost is forecast to continue to deliver the largest growth in passenger volumes [ER 4.3.12]. The LCC market is primarily served by Gatwick, Stansted and Luton, with a comparative lack of LCC at Heathrow, in part due to the higher landing charges levied compared to Gatwick [ER 4.3.13]. The ExA did not apportion weight to the potential growth that could be realised if the application for Development Consent for London Luton Airport Expansion is granted, given that Luton would likely be smaller than Stansted, and much of their forecast growth would occur in the 2030s [ER 4.3.28].
49. Airport Coordination Limited ("ACL"), the independent slot co-ordinator for the UK appointed by the Secretary of State, highlighted on average 12% of requested slots at Gatwick were unallocated, a figure higher than any other ACL Co-ordinated Airport [ER 4.3.15]. The ExA considered that the evidence presented by ACL highlighted that Gatwick is heavily constrained at certain key times and months of the year, with demand significantly outstripping supply. This view was supported by evidence from the LePAs [ER 4.3.29] and easyJet [ER 4.3.30 - 4.3.31].
50. The ExA questioned the Applicant as to whether Gatwick could become more of a hub airport like Heathrow, particularly if Heathrow remained constrained, and if it had the potential to threaten the UK's global aviation hub status. The Applicant responded that it did not have aspirations for Gatwick to create a similar operation to Heathrow, and that the forecasts submitted by the Applicant demonstrate that transfers are expected to remain a small sector demand (<5% of passengers) [ER 4.3.16], in comparison to HAL's estimation that 23% of their passengers are transferring between flights [ER 4.3.17]. The ExA concluded whilst the number of transfer passengers has increased at Gatwick (from less than 5%, up from less than 2% in 2019), this is still a small increase and would be significantly less than Heathrow, where a large proportion use the airport as a hub [ER 4.3.35]. The ExA considered that Heathrow and Gatwick airport's markets, while similar in some ways, are different in others. This is exemplified by the comparison of the LCC market at Heathrow (3% of the London airport market), compared to Gatwick, which is dominated by the LCC market [ER 4.3.34].
51. HAL highlighted the demand forecasts put forward by the Applicant demonstrate strong, long-haul growth of over 145% by 2047. HAL's view is that that the Applicant 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 Heathrow NWR scheme [ER 4.3.22]. The LePAs considered that any erosion of point-to-point demand at Heathrow, as result of the Proposed Development, would undermine Heathrow's position. [ER 4.3.23]. The Applicant responded that Gatwick would continue to serve point to point routes where demand is typically large enough to justify several carriers on a route and provide connectivity into non-UK hubs. It further considered that the lack of a third runway inhibits Heathrow's ability to attract more long-haul traffic in the interim, however, it recognised the implementation of the NWR would see a reversion of traffic back to Heathrow, with Gatwick consolidating as a lower-cost, complementary airport [ER 4.3.24]. The ExA agreed with the assertion put forward by the Applicant [ER 4.3.36].

52. The ExA concluded that although the Proposed Development may have some effect in the short term on Heathrow's hub status, this will not be significant or long lasting and would not unduly affect this status in the long term [ER 4.3.37]. The Secretary of State is minded to agree with this conclusion, given the current mix of LCC and long-haul traffic at both airports, Heathrow's established hub status, and the proportion of transfer passengers served.

Demand Forecasts

53. The Applicant submitted forecasts with the application for the existing runway case and with the Proposed Development. The forecasts were provided through a mixture of bottom-up and top-down forecasting [ER 4.3.38]. The Applicant presented a revised, top-down approach at Deadline 1, based on the Jet Zero Modelling Forecasts (March 2023) [ER 4.3.43], following Interested Parties concerns regarding a primarily bottom-up approach to forecasting [ER 4.3.42].
54. The top-down forecasts demonstrated a slower build-up of demand to use the Proposed Development, and were preferred by the LePAs, as they asserted that the forecasts 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 [ER 4.3.44]. The ExA agreed with the concerns of the LePAs over the reliance on bottom-up forecasts. It set out that whilst they are useful in the short term and reflect conversations between the airports and its airline customers, over the longer term it is more challenging, as aviation is a volatile business subject to numerous external factors and operate in a highly competitive marketplace for airline traffic [ER 4.3.49].
55. The ExA did note, however, that the variance between the bottom-up and top-down forecasts occurred within 6 years of the Proposed Development's commencement, and it was reasonable to assume that conversations between Gatwick and the airlines would be well advanced, and more reliable than a "normal" bottom-up forecast [ER 4.3.50]. The ExA considered, therefore, that the true figure is likely to be between the two figures presented by the forecasts, and that the benefits of the Proposed Development in the first years of operation would be overstated to a small degree [ER 4.3.51].
56. The ExA considered, therefore, that a likely outcome by 2047 in terms of passenger numbers would be 60-61mppa for the future baseline, and 76-77mppa with the Proposed Development, resulting in a delta of around 16 to

17mppa, larger than the Applicant's prediction of 13mppa [ER 4.5.9]. The effect of this is noted by the ExA throughout their Report and is considered within the relevant sections of this letter. However, the ExA concluded that these impacts would not be significant, and that the forecasts would be aligned from 2038 onwards [ER 4.3.51]. The Secretary of State is minded to agree with the ExA's conclusions on this matter.

Future Baseline and Northern Runway Project

57. The Applicant submitted a Technical Note on the Future Baseline to the Examination, detailing the future "make-up" of the future baseline forecast, outlining four elements of growth the Applicant considered would grow the airport from 47mppa to 67mppa in 2047. These were [ER 4.3.53]:

- Peak Growth (+2mppa)
- Peak Spreading (+5mppa)
- Aircraft Size (+9mppa)
- Load Factor (+4mppa)

58. Although the technical note specially related to the future baseline, it was confirmed by the Applicant that the same principles of growth apply with the Proposed Development, and therefore the Applicant's forecast growth figure of 80.2mppa [ER 4.3.56] includes the baseline growth, plus the growth attained from the Proposed Development [ER 4.3.54]. The ExA requested for the LePAs to confirm their view of what would be a realistic future baseline figure, and for the Applicant to subsequently provide a sensitivity analysis based on these figures [ER 4.3.55]. The figures submitted by the Applicant and the sensitivity case are presented at Figure 4.10 [ER 4.3.57]

Peak Growth

59. The Applicant noted that growth historically has been achieved in the peak months through the incremental growth of runway capacity. It cited the example of the 2009-2019 period, where 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 [ER 4.3.58]. It forecasted 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 [ER 4.3.59]. The LePAs noted the increase in busy day operations is all expected to be after 19:00, and consider it is not clear that there is sufficient airline demand to operate solely in the evening to deliver an uplift [ER 4.3.61]. The ExA agreed that a 2mppa increase for peak growth in the baseline forecasts is reasonable and theoretically achievable [ER 4.3.90]. The Secretary of State is minded to agree with this conclusion.

Peak Spreading

60. The ExA noted there was considerable disagreement between the Applicant and the LePAs on peak spreading, often referred to as seasonality [ER 4.3.91]. It determined that the Applicant seemed optimistic in its prediction, highlighting that whilst peak spreading will occur more in future (mirroring the trend from 2013 to 2019) both due to necessity (i.e. lack of slots in the peak periods) and a changing customer profile (an ageing population with more disposable income travelling out of the school holiday periods), the peak periods will likely always

be significantly busier than the off peak periods, and will generate more profit for airlines [ER 4.3.92].

61. The ExA were of the view that the LePA's forecasts, in contrast, seem overly negative, as they presented that there would be no peak spreading other than largely as a function of peak growth. The ExA concluded that some peak spreading will occur, and that the trend witnessed prior to the pandemic may return, even if not at such a quick rate [ER 4.3.93]. It asserted that a seasonality ratio of 1.09/1.10 with the Proposed Development may be achievable. [ER 4.3.94]. The Secretary of State is minded to agree.

Aircraft Size

62. The Applicant highlighted that average aircraft sizes have been growing industry-wide, detailing the increase in the average aircraft size at Gatwick from 170 to 192 seats, with further growth assumed to increase up to 210 seats by 2030, and 224 seats per average plane by 2047. The Applicant's assumptions are based on the fleet mix for the main airlines using Gatwick and is of the view that at capacity constrained airports, airports are more likely to up-gauge aircraft at a faster rate, reflecting the scarcity of capacity [ER 4.3.82].
63. The LePAs broadly agreed that the average number of passengers per aircraft will increase, although they considered that it is not necessarily the case that airlines are more likely to up-gauge the aircraft more quickly operating at a capacity constrained airport, as this would depend on the aircraft available within their fleet [ER 4.3.83].
64. The ExA shares the concerns of the LePAs, and that whilst growth via larger planes would be significant and in the region of the Applicant's estimates, the 9mppa uplift may be slightly optimistic, although not to a large degree [ER 4.3.96]. The Secretary of State is minded to agree with this conclusion.

Load Factor

65. Gatwick experienced an increase in load factor from 79% to 86% from 2010 to 2019. The 2023 figures, up to August, indicated a load factor of 85%, and the forecasts submitted by the Applicant assume that this will increase to 90% by 2030, and 91-92% by 2047 [ER 4.3.86].
66. The LePAs noted that although some airlines do operate regularly with load factors in excess of 90% over the year, many airlines do not operate at this level. Furthermore, they noted that there is a natural ceiling on the load factor, due to an imbalance between inbound and outbound passengers during the holiday periods, seasonal differences and market variations [ER 4.3.87].
67. The ExA agreed that there is a natural ceiling on load factors and considered that the ceiling of 90-91% seemed appropriate [ER 4.3.97]. The Secretary of State is minded to agree with his conclusion.

Conclusion on the Need Case

68. The Secretary of State is minded to agree that there is a nationally recognised need for aviation development, particularly in the south of England, as demonstrated by the ANPS, the Airports Commission and by the DfT forecasts from 2017, 2022 and 2023 and the current capacity at London Airports falls far short of this need [ER 4.5.2].

69. The Applicant considered that Gatwick is unique amongst London's airports due to its carrier make up of full service, low-cost, charter and regional carriers [ER 4.3.14]. The LCC market is dominant at Gatwick [ER 4.3.12], in comparison to Heathrow, which only captures 3% of the low-cost market in the London airport system [ER 4.3.34]. Forecasts submitted by the Applicant demonstrate that transfer passengers (a marker of a hub airport operation) would remain below 5% of passengers at Gatwick, as compared to Heathrow's estimation that 23% of their passengers are transferring between flights [ER 4.3.17]. The Applicant has forecast strong, long-haul growth of over 145% by 2047, which Heathrow Airport Ltd. argued the Applicant would need to demonstrate is different from, or additional to, the hub demand to be served by a new runway at Heathrow [ER 4.3.22]. The Applicant noted that Gatwick would continue to serve point-to-point routes where the demand is typically large enough to justify several carriers on a route, and that the implementation of the NWR scheme would see a reversion of long-haul traffic to Heathrow, allowing Gatwick to consolidate as a lower-cost, complementary airport playing an important role as part of the wider market offer [ER 4.3.24]. The Secretary of State, therefore, is minded to agree with the ExA that a need has been demonstrated that is largely additional to, and different from the need that would be met by the NWR scheme [ER 4.5.3].
70. The Secretary of State is also minded to agree with the ExA that a true figure presented by the demand forecasts is likely to be between the top-down and bottom up figures presented at the Examination, and that the benefits of the Proposed Development in the first years of operation would be overstated to a small degree, although these would not be significant, as they will be aligned from 2038 onwards [ER 4.3.51].
71. In terms of assessing the future baseline and the Proposed Development, the ExA was of the view that the growth predicted by the Applicant was overly ambitious, and unlikely to be realised in the timeline forecast. Conversely, the LePAs are potentially too pessimistic [ER 4.5.6]. The Secretary of State is minded to agree, noting the ExA's conclusions on different elements of forecast growth at [ER 4.5.7].

Capacity and Capability

Airport

72. Both easyJet and International Airlines Group ("IAG")/British Airways ("BA"), the two largest operators at Gatwick, raised concerns regarding the operational performance of the airport at its current capacity, and the Applicant's ability to successfully manage the proposed passenger increases brought by the Proposed Development [ER 4.4.3]. easyJet stated that the current infrastructure plans do not sufficiently account for increased capacity with aircraft stand and coaching gate capacity at maximums during certain times of the day [ER 4.4.2]. IAG/BA stated that significant investment is required in infrastructure to reduce airfield and stand congestion, and that to achieve the passenger numbers suggested by Gatwick, significant terminal capacity would need to be added [ER 4.4.3]. IAG/BA reaffirmed their concerns at the close of the Examination, despite meetings with the Applicant. easyJet also reaffirmed its comments and continued to express concerns that the issues they had raised would not be improved by the Proposed Development. Of particular note was the Applicant's

plans for aircraft stands continuing to show a bias towards remote operations, which add to congestion and complexity [ER 4.4.6].

73. The Applicant noted that the primary limiting factor in the North Terminal is pier served stand availability, and that a current project to construct Pier 6 would deliver eight additional stands. Furthermore, it noted that the South and North terminals have different peaks, so terminal rebalancing could take place [ER 4.4.5]. The ExA were satisfied that this resolved the queries of easyJet, and that the Proposed Development would provide adequate terminal infrastructure for the Proposed Development. The construction of Pier 7 and associated direct stands as part of the Proposed Development would assist this further. However, the ExA considered that the outstanding concerns of both airlines concerning remote stands are relevant, outstanding and carry weight [ER 4.4.9]. The Secretary of State is minded to agree.

Other future baseline capacity issues

74. The ExA explored whether the baseline and future baseline scenarios promoted by the Applicant relate to natural change at the airport, and how much reliance is placed on the need for additional consents to deliver changes anticipated in the assessment. The ExA examined surface access and hotels in greater detail to establish this [ER 4.4.13].

Traffic Levels and Congestion

75. The ExA noted the Applicant's Transport Assessment, which indicated that for the 2047 future baseline the network would have very limited capacity, leading to poorer overall performance and significant congestion at key locations. The ExA questioned the Applicant as to whether this could be a practical restraint on airport growth. The Applicant stated that it had confidence that the transport modelling and the Capital Investment Programme highway improvements at the North and South terminal roundabouts will deliver additional capacity in the future baseline scenario [ER 4.4.14]. The ExA highlighted the evidence within the Transport Assessment that it is likely that there could still be significant congestion at key locations and that the predicted congestion would affect a larger area than just the two terminal roundabouts [ER 4.4.15 - 4.4.16].

Hotels

76. The ExA questioned the Applicant as to why the future baseline scenario does not require any additional hotels, with the Applicant responding as airport passenger numbers grow, these could be provided on or off-site, and applications will be made by the Applicant or the market as appropriate [ER 4.4.17]. The ExA considered that increasing hotel provision by means of separate planning applications cannot be regarded as a natural change in the baseline environment, and that the inclusion of hotels within the Proposed Development further indicates that hotel provision would be an element of the airport's operational success [ER 4.4.20].

Conclusion on Other future baseline capacity issues

77. The Secretary of State is minded to agree with the ExA's conclusion that there are some doubts over the ability of "external" infrastructure, such as surface access and hotel provision in the future baseline scenario, although it is noted that the behaviour of passengers is difficult to gauge fully [ER 4.5.8]. She is also minded to agree with the ExA that these two issues carry some weight in respect

of whether the future baseline, as stated by the Applicant, is realistic and achievable [ER 4.4.22].

Airspace

78. During the Examination, various discussions took place concerning airspace, and the need for airspace change proposals as a result of the Proposed Development, the interlinkages between the two issues and future plans [ER 4.4.24]. The CAA confirmed that the Proposed Development would not constitute a change in airspace design, since the conventional Standard Instrument Departure routes for the current northern runway, which are already notified, would continue to be used under the proposal. The Statement of Common Ground (“SoCG”) between the Applicant and National Air Traffic Services confirms no airspace change is required [ER 4.4.25].
79. The Secretary of State notes there were also discussions over the implications of the Proposed Development for the Future Airspace Strategy Implementation programme, and specifically the southern element of this project, as set out by the ExA at ER 4.4.26 - 4.4.32. In particular, easyJet highlight that this programme of modernisation should be in place prior to the London area taking on additional air traffic which would exacerbate impacts such as emissions [ER 4.4.29]. However, the Secretary of State is minded to consider 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 [ER 4.4.34]. The ExA has considered the environmental impacts from the Proposed Development in the relevant sections of their Report [ER 4.4.34].

Overall Conclusion on the Principle of the Proposed Development and the Need Case

80. Overall, the Secretary of State is minded to agree with the ExA’s conclusion of moderate weight in favour of the Proposed Development, due to the need for aviation capacity, as outlined and supported by the ANPS, as well as identifying a need that would partially satisfy, would be additional to, and different from that which would be met by the Heathrow NWR scheme [ER 4.5.12].

Traffic and Transport

81. The Secretary of State has had regard to Chapter 12 of the ES and the Transport Assessment which set out the Applicant’s assessment of traffic and transport matters [ER 5.2.1]. The ExA’s summary of the Transport Assessment and the modelling used within it, is set out at [ER 5.2.2 - 5.2.14]. Ultimately, the Applicant’s Transport Assessment concluded that there would be no improvements required to the rail network in order to cope with additional demand from the Proposed Development; there would be some improvements required to local bus and coach services; and that overall, the operation of the highway network would not be made worse by the additional demand arising from the Proposed Development [ER 5.2.15]. The proposed highway improvements would mitigate the impacts on the adjacent highway network and consequently Chapter 12 of the ES did not identify any residual likely significant effects on traffic and transport [ER 5.2.17].
82. The Secretary of State further notes that the specific Surface Access Commitments (“SAC”) also set out the Applicant’s intended measures to deliver the surface access outcomes described in the ES and Transport Assessment, and these assurances would be secured via the Order [ER 5.2.1]. The SAC

contains 16 commitments that seek to achieve three outcomes. The first is to achieve specific passenger and staff travel mode shares via sustainable travel [ER 5.2.19], and which commitments 1 to 4 are summarised at [ER 5.2.20]. It is expected the SAC will operate in addition to the existing Airport Surface Access Strategy published in October 2022 and will be subject to separate scrutiny, monitoring and reporting outside of the existing Airport Surface Access Strategy process [ER 5.2.18].

83. Having had regard to the many representations regarding traffic and transport matters as outlined by the ExA at ER 5.3.1 - 5.3.2, as well as the LIRs received [ER 5.3.3], the ExA highlighted that the following were the main matters for the Examination:

- transport modelling and network capacity.
- environmental effects of transport (ES Chapter 12).
- Surface Access Commitments.
- parking.
- active travel issues; and
- construction traffic management [ER 5.3.4].

Transport Modelling and Network Capacity

Post-covid transport model testing

84. As the transport modelling had initially been undertaken using a pre-Covid baseline, during Examination, the ExA requested updated modelling which was to be carried out in consultation with National Highways, local Highway Authorities, Network Rail and train, bus and coach operators. The Applicant's response confirmed a reduction in both highway and rail demand compared to their original assessment, which was predominantly due to the reduction in commuting travel post-Covid. The Secretary of State acknowledges that the Applicant also looked again at the ES assessment given the post-covid changes in traffic flows but despite identifying a potential reduction in highway and rail demand of up to 14% by 2047 compared to forecast in the application modelling, the Applicant concluded that this did not indicate any new or materially different significant effects [ER 5.3.6 - 5.3.7].

Highway sensitivity testing

85. In response to the JSC's concerns about an increase in airport traffic on the strategic road network (following a sensitivity test that the Applicant had shared with them) [ER 5.3.8], the Applicant submitted some details of the sensitivity test which considered that there could be a 10% increase in airport traffic during a busy June day. The Applicant argued this acted as a 'proxy' sensitivity test for the impacts that may be experienced should the mode share targets in the SAC not be met but the ExA highlighted that the Applicant did not provide any evidence as to what degree the extra 10% would equate to the percentage by which mode shares would change. The commentary submitted with the sensitivity test concluded that this would be unlikely to change the findings of the ES or Transport Assessment on the strategic road network [ER 5.3.9 - 5.3.10].

Future baseline sensitivity testing

86. The Secretary of State is aware that the Applicant and the LePAs agreed some assessment scenarios for different growth forecasts for both the Proposed Development and the future baseline [ER 5.3.11]. This was accompanied by a without prejudice commentary from the Applicant on the likely effects of the different growth scenarios on their original traffic assessment [ER 5.3.12]. The ExA were concerned this assessment was qualitative and that there was no quantitative assessment as to the possible changes of effects [ER 5.3.12].
87. The Applicant stated that the reduction in demand of 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 future baselines which suggested that under post-Covid conditions that the sensitivity test would be unlikely to produce magnitudes of impact materially different to what they predicted in the Transport Assessment. The Secretary of State notes that the ExA did not agree that this statement could be supported. The ExA observed that the reduction in traffic applies to both the future baseline and the Proposed Development levels, with the ES examining the change between the two levels. The ExA therefore did not agree with the Applicant that comparison to post-Covid traffic level changes provided comfort that the future baseline sensitivity commentary provided would not produce any unassessed effects [ER 5.3.13].

Rail network capacity

88. The Secretary of State notes that both Network Rail and Govia Thameslink Railway initially raised concerns as to whether the rail network could accommodate the predicted passenger increase arising from the Proposed Development. Of particular concern was the Applicant's modelling of the number of standing passengers and luggage space during peak times [ER 5.3.14 and 5.3.16]. However, during the Examination, the Applicant added Commitment 14A to the SAC to secure improvements to Gatwick Airport railway station and to provide a separate Rail Enhancement Fund which would fund initiatives aimed at improving reliability or enhancing services, linking to the overall aim of increasing sustainable transport use by passengers and staff travelling to and from the Airport [ER 5.3.19]. Following this, both Network Rail and Govia Thameslink Railways had no further concerns, with Network Rail stating that it considered that there was now an '*appropriate mechanism to address unresolved issues in the future and does not object to the proposals on technical modelling grounds*' [ER 5.3.20 - 5.3.21].
89. Although acknowledging Network Rail's final position with respect to mitigation offered by the Applicant, the ExA had outstanding concerns that the levels of service and available seating capacity at busy times would not necessarily be resolved by the interventions proposed. Given the existing passenger loadings travelling to and through Gatwick Airport railway station, the ExA remained unconvinced that the Rail Enhancement Fund and Rail Monitoring and Enhancement Plan as proposed would ensure that the rail network could operate without congestion or crowding issues resulting from the Proposed Development [ER 5.3.23].

Bus and Coach Network capacity

90. With regards to capacity on the bus and coach network, the Applicant has made commitments in the SAC for both regional and local bus and coach service

improvements, a monitoring and reporting process, and a minimum £10 million Bus and Coach Service Fund to support additional services [ER 5.3.27]. Noting that the Applicant stated they would work with operators to develop the detail of the enhanced route network and the funding required to support its implementation and that progress would be regularly discussed with the Transport Forum Steering Group which includes, amongst others, local authorities, transport operators and business and passenger representatives [ER 5.3.24], the ExA were satisfied with the approach taken by the Applicant, and that the commitments would be secured as part of the SAC in the Order [ER 5.3.31].

Highway network capacity

91. In addition to the JSCs' representation referenced above, the Secretary of State is aware of other concerns about the strategic road network being able to cope with the additional traffic arising from the Proposed Development and any subsequent effects this may cause to the local road network [ER 5.3.32]. As also outlined in the Need section of this letter and in the matter of the future baseline sensitivity testing, ER 5.3.34 to 5.3.41 reiterates the ExA's exploration of the Transport Assessment and the capacity of the highway network in the future baseline and Proposed Development scenarios. The ExA was of the view that there was uncertainty that the future baseline assessed by the Applicant was accurate and given that the gap between the future baseline and Proposed Development scenarios was likely to be bigger than assessed, this may also mean the degree of traffic changes and the impacts on highway and junction capacities may also have been underestimated [ER 5.3.42]. The Secretary of State notes the commentary provided by the Applicant regarding the sensitivity testing but this is limited in nature and did not give the ExA sufficient comfort to change their view [ER 5.3.44].

ExA Conclusions on Transport Modelling and Network Capacity

92. Overall, the ExA are satisfied that the modelling in the Transport Assessment relating to network capacity for the Proposed Development scenario, is accurate. However, the modelling in relation to network capacity in the future baseline scenario and its implications for the assessments is unclear [ER 5.3.46]. The Secretary of State is minded to agree that if there is a greater difference between the future baseline and Proposed Development scenarios, it is likely that the assessments submitted by the Applicant do not fully capture the likely impact over the networks [ER 5.3.45]. She has had regard to the ExA's consideration of the queries and concerns raised by the Joint Local Authorities (comprising the LePAs together with MVDC, TDC and KCC [ER 1.4.5]) in their closing statement around aspects of the transport modelling and the element of uncertainty that this created and that of Network Rail indicating that it could not fully reconcile and agree modelling outputs. She has noted that the ExA took the view that both of these positions gave further weight to their own concern over the level of certainty provided by the submitted assessments [ER 5.3.47]. The Secretary of State is currently minded to agree with this conclusion.

Environmental effects of transport (ES Chapter 12)

93. In addition to the network capacity analysis present in the Transport Assessment, the Applicant also examined the potential environmental effects of

the Proposed Development, presented in Chapter 12 of the ES [ER 5.2.16]. The Secretary of State notes that 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 and that the Applicant's proposed highway improvements works provide mitigatory effects on the adjacent highway network. Overall, no residual likely significant environmental effects were identified [ER 5.2.17]. That said, the Secretary of State recognises that the ES only considers the effects created by the difference in traffic levels between a future baseline, and a Proposed Development scenario, unlike the Transport Assessment which fully analyses network capacity and operation for both scenarios [ER 5.3.48].

94. Like the ExA, the Secretary of State considers the manner in which the ES was undertaken is generally correct, however as stated above, she is minded to agree with the ExA's concerns regarding future traffic levels actually being less than those used for the future baseline scenario and those used to inform the assessment in Chapter 12 [ER 5.3.49]. This assessment may underestimate effects associated with traffic resulting from the Proposed Development and because of a likely lower starting point for the future baseline creating a greater gap to the Proposed Development scenario than that assessed by the ES [ER 5.3.50]. This is because the ExA have concluded on the evidence provided that the likely outcome by 2047 would be in the region of 60 or 61 mppa in the future baseline scenario and 76 to 77 mppa for the Proposed Development scenario, which is a difference of 16 to 17 mppa as opposed to the Applicant's prediction of 13 mppa [ER 4.5.5 - 4.5.9]. The Secretary of State notes that the ExA were looking to understand the impact of all airport traffic growth against all non-airport traffic growth on the whole network and to better understand the levels of traffic growth associated with the passenger growth of 26.3mppa from the present day but were not provided with the necessary information to do this [ER 5.3.39]. The ExA therefore concluded that there is still a lack of understanding as to how much of the traffic in the baseline scenario is related to airport activity and that this, together with no appropriate justification or assessment of the future baseline growth, means the traffic effects in the ES may have also been underestimated [ER 5.3.51]. The Secretary of State is minded to agree with this.

Surface Access Commitments

95. The SAC is proposed by the Applicant to be a legally binding document secured via the Order, to provide effective control of surface access to the Proposed Development. The related highway improvement works are not incorporated into this document as the necessary works would be specifically secured in Schedule 1 to the Order [ER 5.3.52]. The Secretary of State understands the overarching objectives of the SAC are to ensure the Applicant's sustainable travel commitments are delivered and to ensure that the assessed surface access-related environmental effects are not exceeded, with appropriate governance of this [SAC, paragraph 3.1.1]. The commitments comprise of achieving specific passenger and staff sustainable travel mode shares; implementing certain measures and interventions to achieve the mode shares; and following a specified monitoring and reporting process to ensure compliance [SAC, paragraph 3.1.2]. The ExA notes that the latest available data from the

CAA shows the public transport mode share for passengers travelling to and from the airport was 43.9% in 2023 and so they considered a significant improvement in mode share must be achieved in order for the Applicant to reach its commitment of 54% within the first year of dual runway operations [ER 5.3.53].

96. The Applicant considered that the proposed modal targets, reporting methods and necessary action plans secured in the SAC would ensure Commitments 1 to 4 would be met but the ExA noted that 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 [ER 5.3.56].
97. The Secretary of State has noted the ExA's discussion and exploration of the modal targets and the proposed monitoring process as summarised at [ER 5.3.55 - 5.3.58]; particularly the stages of the monitoring process, which include preparing an Annual Monitoring Report ("AMR") showing whether targets were expected to be met or not and if two successive targets were not met, preparing a further action plan in consultation with a Transport Forum Steering Group, or ultimately, the Secretary of State for Transport, to approve or direct the Applicant to such additional or alternative interventions where needed to achieve the mode share commitments [ER 5.3.58]. The Joint Local Authorities had concerns about the timing of the mode share commitments and pointed out that the implementation of any measures to remedy any exceedance of the targets, especially those measures requiring the intervention of the Secretary of State for Transport, are likely to take some time, which may even lead to some mitigation measures not being possible [ER 5.3.59].
98. In light of the ExA's own concerns regarding the delay in implementing mitigation [ER 5.3.60], given that the mode shares are the basis of the Applicant's control of traffic effects, the Secretary of State notes that the ExA suggested an amendment to the wording of requirement 20 within the Order, to restrict first use of particular elements of the Proposed Development until it had been demonstrated that the mode shares were met, in accordance with the Transport Assessment and ES, unless otherwise agreed by CBC [ER 5.3.61 - 5.3.62]. However, she also notes the Applicant's disagreement with the requirement wording and their assertion that they '*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*' [ER 5.3.63]. Despite the ExA clarifying that the drafting of the wording allowed for small variances to be agreed at a local level by CBC [ER 5.3.65] and that it considers CBC would act reasonably in their role as discharging authority [ER 5.3.67], the Applicant maintained that relying on such agreement would be discretionary on the part of the CBC and so leaves their operations in an unacceptably uncertain position [ER 5.3.66].

99. The Applicant did confirm that they were adding two interim mode share commitments to the SAC, comprising of specific mode shares to be reached by the first anniversary of the commencement of dual runway operations as outlined at ER 5.3.64. The ExA did not consider that these interim commitments provided any assurance that the underlying issues with control over first use of elements of the Proposed Development are addressed [ER 5.3.65]. The ExA maintains that the recommended amendment to requirement 20 is necessary, directly related and fair and reasonable (in terms of scale and kind) to the Proposed Development [ER 5.3.68]. It is noted that the LePAs expressed support of the ExA's proposed amendment [ER 5.3.67].
100. The Secretary of State is minded to agree with the view of the ExA, that should the requirement be included within the Order as the ExA proposed, that this would provide a realistic mechanism to ensure the effects assessed in the Applicant's ES are not exceeded at the start of dual runway operations, which the Secretary of State is minded to consider necessary given the uncertainty in the modelling as set out above. In addition, the Secretary of State has no reason to consider that CBC would not act reasonably in discharging the requirement relating to a possible need to amend the targets, noting there should be a low likelihood of anything more than a minor variance being needed to the target set out, given the figures used are consistent with the modelled mode shares used in the Applicant's Transport Assessment [ER 5.3.68].
101. Nonetheless, noting the proposed requirement in the rDCO in relation to surface access, in her consultation letter of 9 December 2024, the Secretary of State invited further comments from the Applicant as to the acceptability of the rDCO requirements, advising that should the reasons for the Applicant's disagreement remain, that they propose alternative wording that achieves the same level of protection. In Appendix 1 to their response dated 23 December 2024, the Applicant reiterated their position that the amendments to requirement 20 are unnecessary, unreasonable and not compliant with the NPPF or ANPS. They further stated that for such a requirement to be necessary, it would need to be demonstrated (inter alia) that it was needed to make the development acceptable in planning terms and not merely wanting the requirement in order to guarantee the outcomes assessed in the Transport Assessment. Without prejudice to that position, the Applicant did propose some alternative wording. Most notably, this removed the restriction on first use of the dual runway operations instead proposing a cap to its level of passenger car parking and also replaced CBC as discharging authority with the Transport Forum Steering Group ("TFSG").
102. The Secretary of State invited parties to comment on the Applicant's responses in her letter of 3 January 2025. She has noted the response of the Joint Local Authorities dated 17 January which supported the proposed amendment to requirement 20 of restricting dual runway operations which if allowed to commence, would increase growth at the Airport potentially exacerbating a situation where mode share targets were already not being met. Similarly, Gatwick Area Conservation Campaign ("GACC") also supported the proposed requirement 20. They highlight in their response that if the Applicant regarded non-achievement of the mode share targets as a plausible scenario, this should have been presented during Examination, with a target that the Applicant was confident could be delivered.

103. While the Secretary of State welcomes the Applicant's engagement with her consultation on the requirements, she is not currently convinced that a cap on passenger car parking provides the same level of protection as restricting operation of other elements of the Proposed Development. The Secretary of State's view is currently more aligned with that of the Joint Local Authorities and GACC, in that the Applicant's own SACs confirm they are 'are confident that the committed mode shares are challenging but achievable' and have been modelled appropriately within the Transport Assessment. For the reasons outlined here and at paragraph 100 above, the Secretary of State is minded to agree with the ExA that their proposed wording offers more assurance that the traffic and transport effects in the ES are not significantly exceeded and therefore that the Proposed Development is acceptable in accordance with paragraph 5.22 of the ANPS. However, prior to any final decision, in light of reviewing the ExA's full report, the Secretary of State's initial views, and the responses from Interested Parties, the Secretary of State is providing the Applicant a final opportunity to provide views and/or propose alternative wording for requirement 20 that achieves the same level of assurance or provides evidence as to why this is not achievable. Noting the Applicant's previously confirmed position regarding restricting first use of certain elements of the Proposed Development, the Secretary of State would welcome the Applicant's view on any alternative considerations for securing the achievement of the mode share commitments, e.g. linking this to passenger growth figures.

Transport Forum Steering Group ("TFSG")

104. The TFSG is an existing forum who are consulted in relation to the Airport Surface Access Strategy. Should the Order be granted, and once the strategy is adopted, the TFSG would additionally take on a decision-making role in the monitoring of the SAC. Appendix A of the SAC contains the terms of reference of the TFSG, however the ExA observes that this does not currently contain a definition of how decisions are to be made by this group [ER 5.3.69 - 5.3.70].

105. Although noting the views obtained from the Applicant, CBC and WSCC at ER 5.3.72 - 5.3.73, the Secretary of State is aware this matter remained outstanding at the end of Examination. After consideration, the ExA proposed this is addressed by a further amendment to requirement 20 of the Order, with the addition of "(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.*", to provide certainty as to how any TFSG decision is made [ER 5.3.74 - 5.3.76].

106. The ExA did not have the opportunity within the Examination to receive comments from the Applicant or other Interested Parties. The ExA therefore recommended that the Secretary of State may wish to consult on this proposed addition, prior to any decision [ER 5.3.77]. In her letter of 9 December 2024, the Secretary of State invited views from the Applicant, CBC, National Highways, Network Rail, SCC and WSCC specifically as to the acceptability of this provision within requirement 20. In her letter of 3 January 2025, she also invited comments from all Interested Parties.

107. The Applicant's response of 23 December 2024 confirmed their view as remaining the same as that during Examination, that Commitment 14C of the SAC requires the Applicant to carry out a review of the existing TFSG Terms of Reference prior to the first Annual Monitoring Report being produced and propose such revised terms of reference as appropriate to reflect the role of the TFSG as set out in the SACs, which would then be approved by of the TFSG. They also confirmed that the Joint Local Authorities had provided comments on the TFSG Terms of Reference and proposed amendments to Commitment 14C (including aspects of the decision-making process) which the Applicant would be happy to incorporate, subject to agreement with the Joint Local Authorities on some minor and non-controversial revisions, which were detailed in Appendix 2 of their response. Subsequently, the Applicant submitted their updated version of the SAC within their letter of 17 January 2025, for the Secretary of State to consider prior to her decision, which they state adopts some of the comments of the local authorities, where justified and practicable. The Applicant asserts that as the drafting of requirement 20 obliges them to operate in accordance with the SAC that this, in conjunction with Commitment 14C, would ensure the TFSG's decision-making function will be appropriately reviewed and updated ahead of it coming into force.
108. The responses of the Joint Local Authorities received 20 December 2024 and 17 January 2025 do not seem to align with that of the Applicant and indicate their belief that the Terms of Reference still require further revision. The Secretary of State notes the comments from the Applicant but is currently minded to consider the revisions to requirement 20 as proposed by the ExA provide clarity on a key role to be undertaken by the TFSG, and she is therefore minded to agree that this should be included within the Order.

ExA Conclusions on Surface Access Commitments

109. The ExA recognise that the SAC document is promoted by the Applicant as its method of managing surface access for the Proposed Development and that this will be subject to monitoring and early intervention, should a failure to meet mode share targets be predicted [ER 5.3.78]. However, the ExA's concerns about the transport modelling and the potential of the Applicant's mitigation measures being retrospective, lead the Secretary of State to be minded to agree with the ExA that the mitigation may not be able to ensure that the traffic and transport effects are within the envelope assessed by the Transport Assessment and ES [ER 5.3.79]. The ExA consider that their recommended requirement wording would apply an effective control over first use of some of the land use elements of the Proposed Development, to ensure the Applicant's predicted and assessed modelled mode shares do not exceed that assessed in the ES and that they have provided reasoning as to why their recommendations meet the required tests [ER 5.3.80]. The Secretary of State is currently minded to agree. As outlined earlier in this letter, the Secretary of State invites comments on the ExA's recommended requirements and, in particular, welcomes the Applicant's views on alternative considerations for securing the achievement of mode share targets.

Parking

110. The Secretary of State has had regard to the submissions made relating to parking provision, noting that particular concern was raised about the

management of onsite parking and the potential for on-street parking problems to be exacerbated [ER 5.3.81 - 5.3.82].

111. The Secretary of State notes that the baseline level of parking is 52,160 onsite spaces with the Proposed Development adding an additional 1,100 spaces [ER 5.3.85]. The ExA reviewed the Applicant's car parking assessment and Car Parking Strategy, as summarised at [ER 5.3.83 - 5.3.85], primarily noting that estimation of the passenger car parking requirement calculation in the Car Parking Strategy related only to the 2047 final requirement and the increase from the 2019 peak activity level [ER 5.3.86]. The Secretary of State notes that in response to a request from the ExA, the Applicant provided additional parking level information and predicted mode shares, initially for 2019, 2032, 2039 and 2047 but then annually for both future baseline and Proposed Development scenarios as well as more information on provision and mode share for the future baseline and Proposed Development [ER 5.3.86 - 5.3.87]. After analysis of the responses, the ExA remained uncertain that the car parking provision and controls were adequate and voiced concerned at the potential for the Applicant to be able to use permitted development rights to vary the car parking provision outside of the Order to provide more parking than applied for [ER 5.3.88 and 22.4.8]. Following further discussion with the Applicant and the Joint Local Authorities, the ExA proposed an amendment to requirement 37 of the Order to remove the use of permitted development rights without further consent and to cap the overall level of parking to 53,260 spaces. The ExA have additionally proposed to amend requirement 37 to specify the total number of air passenger spaces allowed within the total provision parking car parking cap [ER 5.3.88 - 5.3.90]. The ExA considered that the level and management of airport parking was an important factor in the Applicant's approach in managing sustainable surface access. With the amendment in place the ExA considered there to be a suitable control of parking levels at the airport [ER 5.3.91].

112. The Applicant's letter of 23 December 2024, in response to the Secretary of State's request for comments on the requirements, proposed further amendments to the wording of requirement 37 to ensure clarity in their operation and to avoid any inadvertent uncertainty in the monitoring obligations. The Secretary of State is minded to consider these amendments satisfactory.

113. The Secretary of State acknowledges that without an appropriate limit within requirement 37 to ensure that parking spaces for air passengers are restricted, parking cannot be effectively managed and there is risk of unassessed surface access impacts. She is therefore minded to accept the ExA's suggestion to amend requirement 37 to specify the total number of air passenger spaces within the total provision and to ensure further parking provision is not to be provided without prior consent. With this provision in place, she is minded to agree there are suitable parking controls and this would be unchanged as a result of the amendments suggested by the Applicant.

Active Travel issues

114. The Secretary of State notes that section 14 of the Applicant's Transport Assessment relates to their aims of encouraging more active travel to and from the airport by developing and promoting accessible, safe and well-planned active travel opportunities. The Transport Assessment also identifies that out of

the significant proportion of Airport staff who live within walking or cycling distance, only 3% of the staff regularly walk or cycle [ER 5.3.92].

115. The active travel improvement measures identified in the Transport Assessment are set out at [ER 5.3.93], including new pedestrian and cycle paths as well as highway and crossing improvements. However, concerns were expressed by the JSCs regarding one of the measures with respect to the proposed more direct path into Riverside Garden Park. It was therefore subsequently confirmed by the Applicant that in lieu of including this within the Proposed Development which would result in further tree and green space loss, the Applicant would ringfence a £500,000 contribution of the Sustainable Transport Fund to develop a new path through Riverside Garden Park, secured via Commitment 3 in the SAC [ER 5.3.94 and 5.3.98].

116. The Secretary of State notes the representations made by Mole Valley Cycling Forum, querying whether Active Travel England have been consulted as part of the Applicant's proposals for walking, wheeling and cycling infrastructure. However, Active Travel England is not currently a statutory consultee for elements of DCO applications.

Public rights of way ("PRoW")

117. Like the ExA, the Secretary of State has considered the Applicant's proposal to control the necessary changes to the PRoW network via the PRoW Implementation Plans. These plans would be drafted substantially in accordance with the PRoW Management Strategy and approved by the relevant local highway authority; noting that the PRoW Management Strategy would be a certified document and secured via article 52 of the Order [ER 5.3.95]. There was no significant disagreement with the overall approach to necessary changes to the PRoW network during the Examination. However, at the end of the Examination, there were several concerns outstanding about potential missed opportunities to improve some elements of the PRoW network affected [5.3.96]. In this respect, the Secretary of State is minded to agree with the ExA that discussions regarding improvements on a particular PRoW could take place as part of the PRoW Implementation Plans [ER 5.3.97] and the Secretary of State is minded to agree with the Applicant's approach set out above.

ExA Conclusions on Active Travel issues

118. The ExA is content that the Applicant has endeavoured to make active travel improvements that will assist in better connecting the Airport to the local communities. The Secretary of State is minded to agree and to be satisfied that these improvements will be secured by a combination of the Surface Access Works (through Schedule 1 to the Order) and the commitments in the SAC [ER 5.3.98].

Construction Traffic Management

119. In order to minimise any impact of construction traffic, as assessed by the Transport Assessment, the Applicant proposed both an Outline Construction Traffic Management Plan to manage construction traffic during the construction of the Proposed Development and an Outline Construction Worker Travel Plan to facilitate efficient and sustainable travel options for the construction workforce [ER 5.3.99 - 5.3.100]. These outline plans would be certified documents secured via article 52 of the Order and the Order contains a requirement that no

part of the development could commence until such plans are approved by CBC, in consultation with WSCC, SCC and National Highways [ER 5.3.101]. Irrespective, at the end of the Examination, the Secretary of State notes that the Outline Construction Traffic Management Plan remained an area of disagreement between the Applicant and the Joint Local Authorities [ER 5.3.102].

ExA conclusions on Construction Traffic Management

120. The Secretary of State is minded to agree with the ExA's conclusions at ER 5.3.103 that the Outline Construction Traffic Management Plan and Outline Construction Worker Travel Plan would be developed in consultation with the highway authorities and therefore able to take account of local environmental circumstances and deliver what would be hoped to be a flexible approach, ultimately approved by CBC. As such, the Secretary of State is minded to agree with the Applicant's approach [ER 5.3.103].

Overall conclusions on Traffic and Transport

121. As noted at paragraph 56 of this letter, the Secretary of State is minded to agree with the ExA's conclusion that there would be a greater difference in the passenger numbers forecast by the Applicant in the future baseline and Proposed Development scenarios, and that a likely outcome by 2047 in terms of passenger numbers forecasts is 76-77mppa with the Proposed Development. The Secretary of State notes the Transport Assessment has assessed junction capacities up to a level of traffic associated with 80.2mppa and is therefore minded to agree with the ExA 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 Order [ER 5.4.4 and 20.2.6]. Nonetheless, there will be increased traffic and passenger journeys as a result of the Proposed Development which will create additional stress on already congested networks. Accordingly, the ExA ascribes moderate negative weight to these matters [ER 5.4.4]. The ExA consider that with their recommended amendments to the Order requirements, additional control and greater certainty would be provided that impacts stay within those modelled in the Transport Assessment and so, should the Order be made including these requirements, traffic and transport matters reduce to a little negative weight [ER 5.4.5]. The Secretary of State is minded to agree with the ExA's conclusions and accept their proposed requirements and with these in place is minded to agree that this matter places slight negative weight against consent being granted.

Noise and Vibration

122. The Secretary of State notes at paragraph 2.9 of the Noise Policy Statement for England ("NPSE") Explanatory Note that unlike air quality there is currently no European or national legislation which sets legally binding limits on aviation noise emissions [ER 6.2.3]. By virtue of the Civil Aviation (Designation of Aerodromes) Order 1981, Gatwick Airport (along with Heathrow and Stansted) is a designated aerodrome for the purposes of section 78 of the Civil Aviation Act 1982 [ER 20.3.13].

123. The Secretary of State has had regard to the established concepts applied to noise impacts set out by the ExA [ER 6.2.4 and 6.2.5] as follows:

- No Observed Effect Level (“NOEL”) – below this level there is no detectable effect on health or quality of life.
- Lowest Observed Adverse Effect Level (“LOAEL”) - the level at which adverse effects on health and quality of life are detectable; and
- Significant Observed Adverse Effect Level (“SOAEL”) – the level above which significant adverse effects on health and quality of life can occur.

124. Paragraph 2.22 of the NPSE provides that 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 and the SOAEL is likely to be different for different noise sources [ER 6.2.6]. The aims of the NPSE are set out at paragraph 2.23-2.25.

125. The Applicant’s assessment of noise and vibration is set out in Chapter 14 of the ES, which is supported by Noise and Vibration figures – Parts 1, 2 and 3 and ten appendices as well as the ES Addendum – Updated Central Case Aircraft Fleet Report [ER 6.3.1]. The ExA considered the noise element of the application under the headings of aircraft noise, construction noise and vibration, and road traffic noise [ER 6.3.2].

Aircraft Noise

126. The ExA set out the Applicant’s consideration of aircraft noise under the heading of aircraft noise assessment, receptor based mitigation and air noise limits [ER 6.3.3].

Aircraft noise assessment

127. The Applicant stated that to reach a conclusion on paragraph 5.68 of the ANPS and on the NPSE, it was necessary to set a value for LOAELs and SOAELs for aircraft noise [ER 6.3.4]. For the reasons set out at ER 6.3.5 - 6.3.7, the Applicant defined aircraft LOAELs as the summer season LAeq 16h of 51dB for day and LAeq 8h of 45dB for night in line with that set out in Government’s ‘Consultation Response by the UK Airspace Policy: A Framework for Balanced Decisions on the Design and Use of Airspace (2017)’.

128. For the reasons set out at [ER 6.3.10 - 6.3.14], the Applicant defined aircraft noise SOAELs as the summer season LAeq 16h of 63dB for day and LAeq 8h of 55dB for night. In relation to the daytime SOAEL 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 [ER 6.3.10]. In relation to the nighttime SOAEL, the Applicant’s closing statement set out that the proposed value for the night period is taken from the interim target in the World Health Organisation’s Night Noise Guidelines 2009, which provided that above this level adverse health effects occur frequently, and a sizeable proportion of the population is highly annoyed and sleep-disturbed [ER 6.3.14].

Receptor based mitigation

129. The Applicant proposed receptor based mitigation (having already considered source and pathway mitigation) based on an inner and outer zone,

with the latter sub-divided into three sub zones [ER 6.3.16]. The inner zone is based on predicted LAeq 16h of 63dB daytime and LAeq 8h of 55dB nighttime summer air contours for 2032. The Applicant set out 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 therefore proposed that people living within this area should be able to apply for a full package of noise insulation up to a limit of £26,500 [ER 6.3.17 - 6.3.18], and those in the outer zones be able to seek a contribution to insulation up to the limits summarised at [ER 6.3.18]. Requirement 18 of the Applicant's DCO would ensure noise insulation measures were installed prior to dual runway operations commencing for those in the inner zone. Noise insulation measures to be installed for those in the outer zone, sub zones 2 and 3 would be installed by the second and third anniversary of the commencement of the dual runway operations respectively [ER 6.3.22].

Air Noise Limits

130. The Applicant set out proposals for noise limits in the form of a noise envelope in the ES Appendix 14.9.7 [ER 6.3.23]. The Applicant set out a central case ("CC") based on what was considered to be the most likely rate of fleet transition, from the current to the next generation of quieter aircraft. To account for uncertainty and the financial impacts on the airlines, noise modelling for a slower transition case ("STC") was undertaken which assumed the rate of fleet transition was delayed by around 5 years and which would result in higher noise levels than the CC [ER 6.3.24 - 6.3.25].
131. The Applicant confirmed its proposed metrics for noise envelope purposes as the LAeq 16h of 51 dB contour area (the area enclosed by the 92 day summer season average mode noise contour) and LAeq 8h of 45 dB contour area (the area enclosed by the 92 day summer season average mode noise contour) [ER 6.3.28]. The Applicant proposed requirements 15 and 16 secured in their DCO [ER 6.3.31] to address planning, monitoring and reviewing the noise limits [ER 6.3.32].

Daytime and Night-Time LOAELs

132. The ExA highlighted that several local authorities had raised concerns about the Applicant's choice of noise thresholds for air noise during both the day and night, as well as concerns about the existing impact of noise on their local area [ER 6.4.4 - 6.4.8]. The LePAs highlighted with regard to the impact of night noise that the World Health Organisation strongly recommended reducing noise levels from aircraft to below 40 dB Lnight, as nighttime aircraft noise above this level is associated with adverse effects on sleep. Unlike Heathrow, Gatwick does not operate a voluntary night flight ban for any part of the DfT night flight period (23:30-06:00) [ER 6.4.8]. Gatwick Obviously Not ("GON") highlighted that CAP 1506 showed 7% of people were highly annoyed by aircraft noise levels below 51dB LAeq 16h, that Gatwick complaint data showed evidence that a number of people living outside the areas of their LAOEL contours regard themselves as significantly adversely impacted and that the field of work that

provided data for CAP 1506 did not survey anyone in areas below 51dB LAeq 16h and so could not generate any data on annoyance levels outside the Applicant's proposed daytime LOAEL [ER 6.4.9].

133. Concern was also raised by the United Kingdom Health Security Agency ("UKHSA"), the Government's authority on the health effects of noise. They stated that the Applicant's reasoning for choosing the LOAEL contours as being the lowest level of observable effects during the day, contradicted the CAP 1506 survey data that showed that 7% of people were annoyed at aircraft noise below 51 dB LAeq 16 h [ER 6.4.10]. The ExA concluded that this weighed against the Applicant's position that their noise threshold reflected the lowest level of observable effects [ER 6.4.26].

134. The ExA highlighted that the ANPS sets out at paragraph 5.53 that in relation to human receptors, operational noise should be assessed using the principles of the relevant British Standards and other guidance [ER 6.4.15]. The ExA considered the British Standard 'Methods for rating and assessing industrial and commercial sound' (BS 4142) and British Standard 'Guidance on sound insulation and noise reduction for buildings' (BS 8233) were important and relevant to the assessment of operational impacts for the reasons set out at ER 6.4.16. Using the principles set out in these British Standards, and in line with paragraph 5.53 of the ANPS, the ExA considered the daytime LOAEL should be 45 dB LAeq 16h [ER 6.4.19]. The ExA disagreed with the Applicant that choosing a different LOAEL level to that proposed by them would be inconsistent with Government's judgment and intention to bring consistency to aircraft related planning [ER 6.4.32] for the reasons set out in [ER 6.4.20 - 6.4.31].

135. For the reasons set out in [ER 6.4.33] and in line with the principles of the British Standards (BS 4142 and BS 8233), the ExA considered an appropriate value for nighttime LOAEL is 40 dB LAeq 8h [ER 6.4.34].

Conclusion on Daytime and Nighttime LOAELs

136. Overall, the ExA agreed with the Applicant's choice of noise metric of daytime and nighttime LOAELs in the form of LAeq, 16h and LAeq 8h [ER 6.4.36 - 6.4.37] but disagreed with the values assigned to these. The ExA considered that a daytime LOAEL value of 45 dB LAeq 16h and a nighttime LOAEL value of 40 dB LAeq 8h are well supported by the evidence presented to the Examination [ER 6.4.39]. The evidence base provides a sound foundation to assess aircraft noise resulting from the operation of the Proposed Development and would inform consideration of the eligibility criteria for receptor based mitigation and the setting of noise limits to achieve the aims of noise policy as set out in ANPS and NPPF [ER 6.4.40]. They considered that this was consistent with a range of views and information including the views of the UKHSA, the principle and guideline values of British Standards BS 8233 and BS 4142 as well as the response against noise exposure survey information published by the CAA as CAP 1506 (Survey of noise attitudes 2014: Aircraft Noise and Annoyance, second edition) and CAP 2161 (Survey of Noise attitudes 2014: Aircraft noise and sleep disturbance) [ER 6.4.38].

137. The Secretary of State is minded to agree with the ExA's choice of metric as this reflects the 92-day summer period [ER 6.4.36] and notes the explanation provided by the Applicant that this is the period where air traffic is at its highest and likely noisiest and has been shown to correlate better with annoyance than those for other seasons [REP10-011, paragraph 5.1.5]. The Secretary of State is also minded to agree with the ExA that as defined in Government policy a LOAEL is the level above which adverse effects on health and quality of life are detected [ER 6.4.30].

Conclusion on Daytime and Nighttime SOAELs

138. Several parties raised concerns about the Applicant's proposed level of SOAEL, that it did not address existing survey data or cumulative effects with ground noise [ER 6.4.41 - 6.4.42].

139. The ExA highlighted that the paragraph 3.17 of the APF considered the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise where the approximate onset of significant community annoyance occurs but that CAP 1506 had since indicated the level to be lower than that at 54dB LAeq 16 [ER 6.4.43]. The ExA also noted that this was the contour used in the London Stansted Airport planning appeal decision as the basis for daytime noise restrictions to limit and where possible reduce the number of people significantly affected by aircraft noise and that this is consistent with the APF and the metric used by the CAA in Glossary to Aircraft Strategy: Noise Forecast and Analysis (CAP 1731) [ER 6.4.46].

140. It was noted that the Applicant's choice of 63 dB LAeq 16h as the daytime SOAEL was based on the London Heathrow Airport planning appeal decision but the ExA noted that this appeal was heard in 2015 and that as CAP 1506 was first published in 2017, the ExA gave the Heathrow planning appeal decision little weight [ER 6.4.47].

141. The ExA also noted that the Applicant's proposed use of the WHO 2009 interim target for nighttime noise applies to noise that is not from a specific source and is without character and that the character of aircraft noise means a level lower than this should be set in accordance with BS 4142 [ER 6.4.49]. In line with the planning Appeal decision on Stansted airport, the ExA noted that the onset of significant annoyance at nighttime SOAEL is at LAeq 8 h 48dB [ER 6.4.51].

Overall conclusion on Aircraft Noise assessment

142. The Secretary of State is minded to agree with the ExA that the Applicant's choice of metric of daytime and nighttime LOAELs in the form of LAeq 16h and LAeq 8h for the average summer day as defined in CAP 1731 and she is further minded to agree that given the importance of the metrics in the consideration of aircraft noise effects, the CAP 1731 definitions should be set out in the DCO [ER 6.4.53 - 6.4.54]. The Secretary of State is also minded to agree that values need to be assigned to these metrics corresponding to LOAELs and SOAELs to enable an assessment to be undertaken of the significant and adverse effects on human receptors and to enable these to be

identified and addressed as required by paragraph 5.68 of the ANPS [ER 6.4.55].

143. The ExA highlighted that as paragraph 5.53 of the ANPS sets out that the relevant British Standards should be used to assess effects on human receptors caused by the operation of the airport, 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 inappropriate and led to inaccuracy. The ExA also considered that the Applicant did not pay due regard to the other evidence made available before or during the Examination [ER 6.4.56]. Whilst the Secretary of State notes that the ANPS does not have direct effect in relation to this Application, she is minded to consider that it is an important and relevant consideration and therefore is minded to agree with the ExA that the relevant British Standards should be used. The Secretary of State is currently minded to agree with the ExA that the thresholds for LOAEL and SOAEL should be as follows [ER 6.4.58]:

- LOAEL LAeq 16h – 45dB
- LOAEL LAeq 8h – 40 dB
- SOAEL LAeq 16h – 54dB
- SOAEL LAeq 8h – 48dB

Receptor based mitigation

144. A number of concerns were raised about the Applicant's Noise Insulation Scheme ("NIS") including in relation to provision for heating and cooling and operation and maintenance costs for that, the threshold for the scheme and that it should account for operational and ground noise, timing for the delivery of noise insulation and how schools and dwellings without an upstairs might be accounted for [ER 6.4.60 - 6.4.66]. It is noted that the Applicant adjusted the NIS to include nurseries and pre-schools with teaching rooms [ER 6.4.67] and that the ExA considered for the purposes of assessing whether premises needed to be considered for receptor based mitigation, ground and air noise should be combined before a comparison is made against the threshold [ER 6.4.74].

145. The ExA explored the British Standard guidance BS 8233 recommendations on receptor based mitigation of aircraft noise and noted that whilst technology advances have led to quieter aircraft, a number of homes and other premises were expected to be above SOAEL [ER 6.4.69 - 6.4.70].

146. The ExA considered that the Applicant's proposed DCO requirement 18 meant that those significantly adversely impacted because of night time noise would not have mitigation installed in a timely manner and may not be considered for any mitigation at all [ER 6.4.75] and that the Applicant's proposed financial contributions limits to mitigation meant there was a lack of certainty as to whether significant effects on occupants would be avoided [ER 6.4.76]. The ExA therefore concluded that the Applicant's proposed requirement 18 and its NIS were insufficient to meet the first aim of paragraph 5.68 of the ANPS to

“avoid significant adverse impacts on health and quality of life” [ER 6.4.80] and that receptor based mitigation eligibility should be based on the significant effect threshold with timing of its implementation based on the aim of avoiding significant adverse noise effects on people in their homes which the Applicant’s final proposals would not achieve. The ExA therefore recommended a revised requirement 18 that set out a revised eligibility, design and implementation process for the proposed mitigation to be overseen by the local planning authority [ER 22.4.10]. This did not reference the Applicant’s NIS which the ExA considered overlapped with requirement 18 [ER 6.4.77].

147. The Secretary of State sought views on the ExA’s proposed revised requirement 18 from the Applicant on 9 December 2024. The Secretary of State notes that the Applicant’s comment in their response of 23 December 2024 that the principal characteristics of the requirement were not put forward early enough in the Examination to be discussed at any of the hearings.

148. The Applicant considered the new requirement disregarded their NIS, which they argued achieved and exceeded all policy requirements and objectives and did not need to be reinvented. They set out a number of concerns with the proposed requirement including that no party had suggested noise insulation should be provided to an unlimited specification for all properties inside the 54 dB LAeq 16 h noise contour, that the noise insulation scheme for each property would need to be agreed with the Local Planning Authority (“LPA”) and that if the LPA did not approve, the undertaker would offer to buy the property. The Applicant considered that this meant the LPA had a veto over any noise insulation design without any recourse for the Applicant to appeal or for any dispute resolution. They set out that they considered the requirement to be inconsistent with Government policy and precedents set in other airports, citing paragraph 3.39 of the APF, which states that there is an expectation that airport operators offer financial assistance towards acoustic insulation to residential properties which experience an increase in noise of 3dB or more, which leaves them exposed to levels of noise of 63 dB LAeq,16h or more. The Applicant considered this would be a departure from the established, tried and tested processes and would place an uncapped liability on them and would not comply with the tests for requirements set out in paragraph 4.11 of the NPSNN and paragraph 4.9 of the ANPS. The Applicant considered that the NIS submitted at Examination, in line with policy, ensured acceptable internal living conditions. The Applicant set out examples of what their scheme could deliver but noted that a small proportion of homes that are not typical, for example homes with acoustically poor walls or other building elements, for which higher internal noise levels may be unavoidable without major building works, which the Applicant stated they could not reasonably be expected to fund. The Applicant noted acceptable internal living conditions included thermal comfort and that the NIS also includes three measures to address overheating but that the Applicant rejected further suggestions for cooling that were discussed during the Examination as being inappropriate and not necessary or required in the context of Government policy on sustainable development.

149. With regard to non-residential building, the Applicant did not consider it necessary to extend their offer beyond schools but if the Secretary of State considers noise insulation should be extended to non-residential buildings beyond schools that this should be against a threshold of LAeq 16 hr 63dB. With regard to considering and mitigating cumulative ground and air noise effects, the Applicant referred to a previous response to the ExA as to why this should not be in the NIS but that if the Secretary of State considered it necessary to have a cumulative ground noise element included in the NIS, noise insulation should only be applicable where cumulative air and ground noise are above ambient noise and that they should be able to further refine and develop a ground noise model for this purpose, in consultation with the LPA.
150. The Applicant proposed alternative wording for requirement 18 noting that the substance of their revisions retrofitted the Applicant's previous drafting and which they considered provided more reasonable and proportionate levels of protection when considered against the effects of the scheme but with further concessions from their proposed wording at Deadline 10 to allow LPA approval of mitigation design for community buildings, an upper limit of £250,000 for funding mitigation to each community building (or group of buildings), and the potential inclusion of cumulative ground and air noise effects mitigation, should the Secretary of State consider this necessary.
151. The Secretary of State invited comments on this response on 3 January 2025.
152. GACC were content to support the Secretary of State's proposals as outlined in its consultation letter of the 9 December 2024, and several Interested Parties agreed with the daytime and nighttime SOAEL limits proposed. CAGNE noted that the Applicant's proposals would not allow for premises to be protected prior to the commencement of dual runway operation and thus provided compensation to mitigate this. However, the Secretary of State's proposed requirement would ensure this is completed beforehand. In their response of the 17 January 2025, the Joint Local Authorities stated that the Applicant's proposed revised wording provides a lower level of noise insulation compared to the wording put forward by the ExA. It highlighted four main issues with the Applicant's proposed, revised wording for requirement 18.
153. The Joint Local Authorities outlined that the thresholds for the noise insulation scheme inner zone should be set at 60dB LAeq 16h for the daytime, and 48 LAeq 8h for the night-time, although note that the current thresholds of 63dB LAeq 16h and 48 LAeq broadly align with the proposed compensation scheme for the London Luton Airport Expansion DCO. With regard to compensation, the Joint Local Authorities highlighted that as part of the London Luton Expansion DCO, Luton Airport would offer a contribution of up to £20,000 for residential properties inside the 60dB LAeq 16h contour, and outside of the 63dB LAeq 16h contour, which is equivalent to Outer Zone 1. The Applicant is proposing to offer such properties up to £10,500, which the Joint Local Authorities would like to see improved in line with London Luton Airport's

offering. However, the Secretary of State is mindful that a decision is yet to be made on the DCO relating to Luton Airport.

154. The Joint Local Authorities welcomed the Applicant's improvement to the noise insulation scheme on eligibility due to ground noise, which would be determined by prediction, rather than monitoring. However, the Joint Local Authorities stated they required further information from the Applicant on several issues, including: a commitment to provide annual ground noise contours covering the Inner and Outer Zone noise thresholds, details on how cumulative air and ground noise levels would be calculated at sensitive receptors, and a commitment to identifying how ambient noise levels at receptors would be defined to determine eligibility for insulation.
155. The Joint Local Authorities highlighted that no information had been provided on ground noise effects during the period the western bund is removed and replaced due to the construction of the Proposed Development. They set out that the properties affected by this and eligible for compensation should be identified prior to the demolition of the western bund. Furthermore, the Joint Local Authorities requested that the Applicant provide a definition of "actual noise levels," as part of its new commitment at paragraph (12).
156. The Joint Local Authorities stated that a requirement should be included within the DCO to ensure the noise insulation scheme implemented by the Applicant includes measures to reduce solar gains, with reference to the guidance produced as part of the Building Regulations 2010 on Overheating.
157. The Joint Local Authorities set out that the Applicant should adopt an Unacceptable Adverse Effect Level ("UAEL") of 69 dB LAeq 16h and 63 dB 8h, noting the precedent set in previous airport expansion projects (Luton, Manston, Bristol, Stansted). Furthermore, the Joint Local Authorities were of the view that residential properties affected by this noise level should be eligible for voluntary acquisition, in line with the compensation policies set out in the proposed London Luton Airport Expansion DCO, and the policy requirement at paragraph 3.36 of the APF.
158. The Secretary of State notes the Applicant's arguments that the proposed revised requirements do not align with paragraph 3.39 of the APF but notes that this is the minimum level of financial assistance that should be offered only. Whilst noting the reference to mitigation offered at other airports by all parties, the Secretary of State considers it important that any financial assistance mitigates significant impacts and is considered on a case by case basis based on the particular circumstances of an application.
159. Overall, the Secretary of State considers that the mitigation offered should ensure that the Proposed Development avoids significant adverse effects on health and quality of life in line with the NPSE [ER 6.2.8] and that where possible contribute to the improvement of health and quality of life in line with the ANPS [ER 6.2.1]. The Secretary of State therefore needs to be satisfied that all reasonable steps are taken to mitigate and minimise such impacts and

that internal living standards do not exceed unacceptable levels of noise resulting from the Proposed Development.

Air Noise Limits

160. The Secretary of State has noted that there are already Night Flight Restrictions in place in the Gatwick Airport to restrict the number of night flights during the 6.5 hour night period between 23.30-06:00 [REP9-112, paragraph 11.5.34]. The Applicant's proposed noise envelope based on their Updated Central Case ("UCC") [REP10-011, ES Appendix 14.9.7: the Noise Envelopment, paragraphs 6.1.8 and 6.1.9] was as follows:

1st Noise Envelope Period: From commencement of dual runway operations to the end of the 1st Noise Envelope period

By the end of the first year after opening of the Northern Runway Project, the area enclosed by the 92-day summer season average mode noise contours for the Airport shall not exceed:

- LAeq 16 hour day 51 dB - 135.5 km²
- LAeq 8 hour night 45 dB 146.9 km²

2nd Noise Envelope Period: From the end of the 1st Noise Envelope Period for the period of 5 years

Nine years after the opening of the Northern Runway Project, or by the end of the year when annual commercial ATMs reach 382,000 (whichever is sooner), the area enclosed by the 92-day summer season average mode noise contours for the Airport shall not exceed:

- LAeq 16 hour day 51 dB - 119.4 km²
- LAeq 8 hour night 45 dB - 134.6 km²

161. The revised noise limit values in the Applicant's UCC would mean that in terms of the 51/45 dB noise contour area values, the day and night LAeq air noise contours do not exceed the equivalent contour areas with one runway in 2019 in any year of operation [ER 6.3.29 and 6.4.100].

162. The Applicant proposed an initial noise envelope limit that will apply for the commencement of operation of the Proposed Development until the first step down nine years after opening or by the end of the year when annual commercial ATMs reach 382,000 [REP9-112, Applicant's closing submissions, paragraph 11.5.77]. The next noise envelope would be for five years with a further noise envelope to follow [REP9-112, Applicant's closing submissions, paragraph 11.5.78].

163. The Secretary of State notes that a number of parties raised concerns about the air noise limits, including in relation to limiting air traffic movements, the proposed noise envelopes and use of the UCC [ER 6.4.82 – 6.4.92].

164. The ExA highlighted paragraph 3.12 of the APF which states that, "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” [ER 6.4.93]. Paragraph 3.29 sets out 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 [ER 6.4.94] and this is further reflected in paragraph 5.60 of the ANPS [ER 6.4.95]. The Overarching Aviation Noise Policy Statement (“OANPS”) sets out that 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” [ER 6.4.96].

165. The ExA concluded that this means all aircraft noise is included within the policy aims of the ANPS, not just significant aircraft noise, and they considered that the OANPS did not change the APF or ANPS that Government expects the benefits of technological changes progress to be shared between operators and those affected [ER 6.4.97]. The ExA considered that CAP 1731 and its requirements for a locally set noise contour area limit at a particular noise level for 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 [ER 6.4.98].
166. The ExA tested whether that Applicant’s proposed noise limit values would be consistent with the ‘sharing of benefits’ [ER 6.4.101]. Following consideration of this as set out in [ER 6.4.102 - 6.4.111], the ExA proposed a revised draft requirement that looked to secure a reduction in noise limits of 0.5dB below the 2019 day and night average from commencement of the dual runway operations then by a further 0.5dB every five years after [ER 6.4.111].
167. The Applicant pushed back on this stating that the airport’s growth would be restricted and give all the benefits of future technology to the local communities and none to the airport which would not be in line with Government policy [ER 6.4.112]. In addition, it set out that it would require a dramatic increase in turnover to quieter aircraft which the Applicant stated there was no evidence to suggest was possible and the Applicant concluded from its understanding of the airlines in operation at Gatwick that such a whole scale rapid change in fleet is not possible [REP9-112, Applicant’s closing submissions, paragraph 11.6.13].
168. It is noted that the LePAs argued against the UCC, which they believed reflected an updated slower transition case, and argued that the CC should be used for setting noise contours and that for the period up to 2035 the ExA’s proposed revised requirements aligned with this [ER 6.4.115]. The Applicant stated that their UCC showed how aircraft had transitioned over the years to next generation aircraft for the whole operating year [ER 6.4.116] and the ExA compared this to the average summer day using reports from the Environment Research Consultancy Department of the CAA for 2019 until 2022 [ER 6.4.117]. This showed the transition rate for aircraft that fly in the summer has continued to trend upwards, including during the Covid years, and has followed a different trend to that set out by the Applicant for the same years. The ExA considered that this tends to favour the position of the LePAs that the CC should be used as the basis for the noise limits that would only apply to the peak summer months [ER 6.4.118].

169. The ExA therefore concluded that air noise limits should be based on the Applicant's original central fleet transition case. The Applicant's final proposals were based on the assumed slower rate of transition which the ExA did not consider would have the effects of sharing the benefits of quieter aircraft with affected communities [ER 22.4.9].
170. The ExA noted the general point made by all Interested Parties that the speed at which airlines transition to newer generation aircraft would determine the rate quieter technology is realised but that they had not been provided with any evidence as to how amending noise limits may impact this transition [ER 6.4.121].
171. The ExA noted their earlier conclusion, as set out in the Principle of the Proposed Development section of this letter, that the Applicant's forecast rate of growth was probably overstated, which they considered would assist the Applicant in achieving a lower noise limit than they had proposed, because there would likely be fewer ATMs [ER 6.4.124], the Secretary of State is minded to agree. Noting the comments on their initial proposed amendments to the noise retractions, the ExA amended these to what they considered would make it more flexible and workable through converting the 0.5dB reduction into a % area reduction which they considered was consistent with the advice provided in CAP 1731. The % area contour change has been aligned to the value of 8% provided in the LePAs analysis in REP9-148 [ER 6.4.125]. The ExA concluded the Applicant's proposals in requirement 15 and requirement 16 in relation to air noise limits would not sufficiently share the benefits of noise reduction as set out in paragraph 5.60 of the ANPS and paragraph 3.29 of the APF and would therefore not achieve the second aim in paragraph 5.68 of the ANPS to mitigate and minimise adverse impacts on health and quality of life in the context of sustainable development [ER 6.4.129]. The ExA therefore proposed replacing the Applicant's requirement 15 and 16 with a single requirement that defines the air noise limits and the calculation and monitoring arrangements and which the ExA considered consistent with condition 7 of the London Stansted planning appeal decision of May 2021 [ER 22.4.9].
172. The Secretary of State sought further clarification from the ExA on their proposed revision to air noise limits set out in requirement 15 of rDCO. The ExA provided clarification to the effect that:
- 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; and
 - 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 CC 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 ExA recommended no further reduction in the night-time air noise limit beyond the second 8% reduction in area compared with 2019.

173. The Secretary of State notes the ExA's proposed revisions to requirements 15 and 16 were not tested during the Examination. The Secretary of State therefore sought views from the Applicant on the ExA's proposed amended requirement 15 in her letter dated 9 December 2024. The Applicant responded on 23 December 2024 welcoming the simplified noise envelope process and accepted the majority of the proposed amendments to the noise envelope limits. Similar to the ExA's proposed amendment to requirement 18, the Applicant however raised concerns that the amendment to requirement 15 (noise envelope) would also jeopardise or prevent implementation of the Proposed Development and that they do not think the amended requirements as drafted could meet the tests as set out in the NPPF and ANPS. They highlighted that the proposed noise envelope, which governs air noise limits, should be based on the UCC and that whilst the day time contour area limit proposed to apply from the sixth year of dual runway operations and both night-time contour area limits are more broadly aligned with the Applicant's proposal, the initial day-time contour area limit proposed of 125km² is not aligned with the Applicant's proposal of 135.5km². The Applicant stated that if this level was imposed it would represent a severe operating restriction on the airport's ability to grow, delaying the benefits of the Proposed Development. The Applicant also requested that an ability for the noise contour areas to be amended, with the permission of the Secretary of State, in circumstances where for reasons beyond their control they could not be met.

174. The Secretary of State invited comments from Interested Parties on this response on 3 January 2025.

175. The Joint Local Authorities presented evidence submitted during the Examination, which indicated that it still considered the assumptions made by the Applicant, as part of the UCC, to be overly conservative. The Joint Local Authorities highlighted they would support a noise envelope, which is based on the CC noise contour areas. CAGNE and GACC were also in agreement with this position.

176. In response to the contour area limits proposed by the Secretary of State, they found that the daytime area limit at the commencement of dual runway operations (125km²) was appropriately defined, however, the lack of a reduction in the noise contour would mean that the Airport could expand, and no benefits would be shared with local communities. The Joint Local Authorities put forward new noise contour limits, aligning with the CC, (Table 3 of their response of 17 January 2025). CAGNE proposed new noise contour areas, (Table 1 of

their response of 17 January 2025), taking forward the lower limits put forward by the Secretary of State, but proposing further limits are secured from the eleventh year of operations, which they considered would ensure continued sharing of benefits and align with aviation noise policy.

177. The Joint Local Authorities disagreed that the Applicant should include a mechanism to allow a review of noise contour areas under extraordinary circumstances, arguing that this would not provide local communities with certainty, and therefore not be compliant with policy. However, they stated that a temporary relaxation of the area limits may be allowable as a result of “force majeure” events.
178. The Joint Local Authorities did not agree with the removal of requirement 16 by the Secretary of State, as noise envelope policy requires ongoing review so the noise envelope remains relevant. As such, they requested the re-inclusion of requirement 16 from paragraphs (1) to (2) of the Applicant’s draft DCO [REP10-006]. GACC concurred with this position.
179. GACC, Peshurst Parish Council and Capel Parish Council’s representations argued that the requirements suggested by the Secretary of State would fail to comply with policy due to a failure to share the benefits, a lack of noise level certainty, use of inappropriate metrics, and a lack of noise envelope limit reviews.
180. With regard to the proposed amendment that would allow the Applicant to amend the noise contours with the approval of the Secretary of State in circumstances beyond their control, the Secretary of State is mindful that any such provisions would require clarity on how such a process would work including how relevant parties would be involved in the process. The Secretary of State would therefore welcome views on this from the Applicant.
181. With this provision in place, the Secretary of State is currently minded to accept the ExA’s reasoning for their recommend revision to requirement 15 and that it aligns with policy requirements to mitigate and reduce the impact of noise on local communities and to ensure any noise reduction benefits are shared with local communities. The Secretary of State notes the Applicant’s concerns but is currently minded to consider that this provision provides a reasonable incentive to ensure actions are taken to reduce noise impacts as soon as possible and that where this is not possible, the Applicant can rely on the provision to amend the noise contours (subject to the process for this being clearly set out) where the reason for not being able to achieve it is beyond their control or they can use the existing amendment procedure under the 2008 Act to seek an amendment. The Secretary of State is therefore minded to disagree with the Applicant that this requirement does not align with the tests for requirements set out in the NPPF and ANPS.

Construction noise and vibration

182. The Secretary of State notes that at the close of Examination, concerns remained in relation to construction noise and vibration and the adequacy of the mitigation and management of these concerns [ER 6.4.131 - 6.4.133]. The ExA

were content that the Applicant's assessment of construction noise was in line with British Standard 5228 ('Code of practice for noise and vibration control on construction and open sites – Part 1 Noise' ("BS 5228")), has been consistent with the ANPS and had used the appropriate guidance in the assessment and mitigation proposals. They also recognised that any construction noise and vibration assessment and mitigation design of the Proposed Development was at a rudimentary level and construction methods were yet to be defined [ER 6.4.135]. Construction noise and vibration is regulated by statutory regime set out in sections 60 and 61 of the Control of Pollution Act 1974 and that those undertaking the construction works would apply to the relevant LPA for prior consent under section 61 to the extent this is secured by requirement 7 of the DCO. The ExA saw no reason why any LPA could not impose conditions potentially in addition to or different to any commitments included in the Code of Construction Practice that they regarded as necessary to achieve the policy aims [ER 6.4.136]. In situations where a section 61 prior consent application had not been made the relevant LPA could use its powers under section 60 to specify measures it considered necessary to achieve the policy aims [ER 6.4.137]. The Secretary of State therefore currently has no reason to disagree with the ExA's conclusion and is minded to agree that the Applicant's approach to assessing and mitigating noise and vibration is in line with paragraph 5.53 of the ANPS and that there are existing regulatory regimes that will enable any outstanding concerns an LPA has in relation to policy compliance to be addressed [ER 6.4.138 - 6.4.139].

Road Traffic Noise

183. The Secretary of State notes the ExA's assessment of road noise at ER 6.4.140 - 6.4.147, noting that amendments will be made to the strategic road network, and is minded to agree with their conclusion that the Applicant's assessment and mitigation is in line with paragraphs 5.235 to 5.242 of the NPSNN and has used relevant guidance [ER 6.4.146]. The ExA concluded that there were no outstanding issues between the Applicant and other interested parties and saw no reason to recommend any changes to the DCO regarding road traffic to achieve policy compliance [ER 6.4.147] and this has been noted by the Secretary of State.

Overall conclusion on Noise and Vibration

184. The ExA concluded that the Applicant had not met the requirements in the ANPS paragraph 5.53 in relation to aircraft noise and paragraph 5.60 in relation to avoiding significant noise effects and minimising adverse noise effects from aircraft noise and therefore ascribed this matter moderate weight against the Order being made [ER 22.2.9]. The ExA, however, recommended that with their proposed amendments to requirement 1 (addition of a description of an eligible premises for reception based mitigation), 15,16 (air noise limits replacing the Applicant's requirement on Air Noise Envelopes and Air noise envelope reviews), and 18 (noise Insulation scheme) and Schedules 11 and 14 this would move to neutral weight [ER 20.2.10]. The Secretary of State is minded to agree.

Water Environment

185. The Secretary of State has had regard to the Applicant's assessment of the water environment as primarily contained within Chapter 11 of the ES and notes the potential impacts from the Proposed Development as set out in paragraphs 11.9.7 to 11.9.161.
186. With the inclusion of the mitigation measures as detailed in paragraph 7.6.6 of the ES Non-Technical Summary [REP3-052], the Applicant concluded that no significant adverse effects on the water environment were likely to occur, but that the following significant beneficial effects were likely to occur [ER 11.2.4-11.2.5]:
- long-term beneficial effects on the water quality of the River Mole and Gatwick Stream.
 - long-term beneficial effects on the geomorphology (physical characteristics) of the River Mole including re-naturalised channel works; and
 - long-term beneficial effects on flood risk from rivers within the Proposed Development site and surrounding area.

Flood risk

187. The Secretary of State has had regard to the representations which expressed concern that the Proposed Development would increase the amount and potential of flooding, especially along the River Mole, and that these impacts would be greater when taking into account climate change [ER 11.3.3].
188. The Secretary of State notes that flood risk is a factor as the Proposed Development site coincides with areas classified as Flood Zone 2 and Flood Zone 3, several areas at high, medium and low risk of surface water flooding, and some areas susceptible to groundwater flooding [ER 11.3.5].
189. Where flood risk is a factor, the Secretary of State must be satisfied pursuant to paragraph 5.166 of the ANPS and paragraph 5.98 of the NPSNN that the application is supported by an appropriate flood risk assessment and that the sequential test and, if required, the exception test have been satisfied.
190. The Secretary of State must also be satisfied pursuant to paragraph 5.167 of the ANPS and paragraph 5.99 of the NPSNN that flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
 - development is appropriately flood resilient and resistant, including safe access and escape routes where required, that any residual risk can be safely managed, including by emergency planning, and that priority is given

to the use of sustainable drainage systems.

191. The Secretary of State notes the ExA's consideration of flood risk and, in particular, the modelling and climate change allowances used in the Applicant's Flood Risk Assessment ("FRA") [ER 11.3.5 - 11.3.13].
192. With regard to the sequential test, the Secretary of State has considered the Applicant's FRA [REP9-053] and the Applicant's consideration of alternative options for the runway and other elements of the Proposed Development [APP-028]. The Secretary of State is minded to consider that the sequential test has been met for the reasons set out at paragraphs 5.10.3 to 5.10.7 of the FRA.
193. For the exception test to be passed, according to paragraph 178 of the NPPF, it must be demonstrated that:
- the project provides wide sustainability benefits to the community that outweigh flood risk; and
 - that the project will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.
194. The Secretary of State has considered the Applicant's Planning Statement [APP-245] and Sustainability Statement [REP3-054] as well as paragraphs 5.10.8 to 5.10.12 and section 7.6 of the Applicant's FRA and is minded to consider that the exception test has also been met.
195. While the Secretary of State has considered representations which expressed concern that the Proposed Development would increase flood risk in the River Arun, she notes the Applicant's confirmation that Gatwick Airport lies wholly within the catchment of the River Mole (including its tributaries) and that this drains northwards to the River Thames [ER 11.3.4]. In the absence of further submissions on this issue, the Secretary of State is minded to agree with the ExA that the Proposed Development would not result in any change to flood risk in the River Arun catchment.
196. The Secretary of State also notes that the Lead Local Flood Authorities ("LLFAs") initially disagreed with the climate change allowances used in the Applicant's FRA [ER 11.3.8 and 11.3.10]. However, at the close of the Examination, SCC did not maintain its disagreement, as set out in its SoCG the Applicant [11.3.13]. While WSCC did maintain its disagreement in its SoCG, there is no mention of any outstanding disagreement in the WSCC Principal Areas of Disagreement Summary Statement. The ExA was therefore satisfied with the final positions of the LLFAs in relation to surface water flooding [ER 11.3.14]. The Secretary of State is likewise minded to agree.
197. The Secretary of State further notes that, at the close of Examination, all matters relating to the water environment were marked as agreed in the SoCG between the Environment Agency ("EA") and the Applicant [ER 11.3.7].

198. The ExA was satisfied with the confirmation received from the LLFAs and the EA in relation to fluvial flood risk and surface water flooding and that the Applicant had demonstrated compliance with the requirements of the ANPS and NPSNN in relation to the highway improvement elements of the Proposed Development [ER 11.3.14]. The Secretary of State is minded to agree with this conclusion.
199. Overall, the ExA concluded that there were no outstanding construction or operational issues relating to flood risk which could not be satisfactorily controlled through the following requirements in the rDCO [ER 11.4.1]:
- requirement 7, which secures compliance with the submitted Code of Construction Practice and, in particular, the Water Management Plan in Annex 1.
 - requirement 23, which requires the submission of a flood compensation delivery plan and secures compliance with it; and
 - requirement 24, which secures compliance with the submitted Flood Compensation Delivery Plan.
200. Having had regard to the relevant documentation, the Secretary of State is currently minded to agree.

Wastewater

201. Thames Water Utilities Limited (“TWUL”) are the water and wastewater services operator for the Proposed Development [REP1-103]. The Secretary of State notes the concerns raised by TWUL that significant strategic updates would likely be required to the network to accommodate additional foul water flows from the Proposed Development and that these works could take between 3 to 5 years to complete. In view of these concerns, TWUL indicated that they would require the inclusion of a requirement which would prevent the discharge of additional foul water flows from the Proposed Development until the modelled flows had been agreed by TWUL and network upgrades had been implemented [ER 11.3.15].
202. The Secretary of State further notes the concerns raised in the JSC LIR regarding the capacity limits at the Horley and Crawley Wastewater Treatment Works and the need to deliver flow improvements from the airport to those works, together with other representations that the Proposed Development would add to existing sewerage problems [ER 11.3.16].
203. In response to the ExA’s request for an update, TWUL indicated that detailed assessments of its public infrastructure were not likely to be completed until 2025 [ER 11.3.19]. The Applicant consequently submitted a second change request for the construction and operation of an onsite wastewater treatment works as an alternative option should TWUL not be able to confirm infrastructure capacity within the Examination timescales. The Applicant considered that the provision of onsite wastewater treatment works would remove any adverse

impact on TWUL infrastructure and constitute potential benefit as all airport foul water flows would be treated onsite. [ER 11.3.20].

204. The Secretary of State notes that the permit requirements which would be required to allow the on-site facility to discharge into the River Mole were raised with the EA, who confirmed that any discharge from a new facility would require full modelling to consider potential impacts on the receiving watercourse with appropriate permit limits set accordingly to protect the environment [ER 11.3.21]. While the SoCG between the Applicant and the EA marked this issue as agreed, the ExA concluded based on the EA's comments that further information would be required in respect of the design and operation of an on-site wastewater treatment facility and the EA's preference for eventual connection to the TWUL public sewer network [ER 11.3.22].
205. The Secretary of State has had regard to both TWUL's and the Applicant's preferred requirements relating to wastewater [ER 11.3.24 – 11.3.25]. However, she notes that the parties had not reached an agreed position at the end of the Examination and that wastewater matters were recorded as "still under discussion" in the unsigned SoCG [ER 11.3.30].
206. The ExA considered that TWUL (as the statutory sewer undertaker) should be able to plan for and deliver any improvements necessary to facilitate the additional foul water flows associated with the Proposed Development, but that the requirements proposed by the Applicant in its draft Order did not allow TWUL to be able to do so. Further, the ExA considered that there was no linkage between the two alternative wastewater solutions proposed by the Applicant in requirements 31 and 36 in the draft Order [ER 11.3.31].
207. With regard to the amended wording that TWUL proposed to requirement 10 (outlined at ER 11.3.25), the ExA concluded that it would not be possible to ascertain the point at which additional foul water flow was the result of the Proposed Development rather than future baseline growth [ER 11.3.31]. Accordingly, the ExA recommended an amendment to requirement 31 which they considered would ensure that priority was given to the agreement between the Applicant and TWUL concerning the impact on and necessary upgrades to the public sewer network and wastewater treatment works [ER 11.3.32 - 11.3.33]. With their amendment, the ExA considered that the wastewater solution would be acceptable and that there would be no likely significant effects relating to wastewater arising from the Proposed Development [ER 11.3.35].
208. As it was not possible for the ExA to consult the parties on the proposed amendment to requirement 31 prior to the close of the Examination, the ExA noted that the Secretary of State may wish to consult the relevant parties before making a decision [ER 11.3.34]. In her letter dated 9 December 2024, the Secretary of State therefore invited the Applicant and TWUL to provide an update and, in the event that an agreement had not yet been reached, to provide

comments on the proposed amendment.

209. In their response dated 23 December 2024, the Applicant confirmed that it was engaging with TWUL and that the scope and funding of further surveys to establish additional data for wastewater flows and loads had been agreed. However, the Applicant stated that it had not received confirmation from TWUL regarding the use of its existing infrastructure for the airport's wastewater and that the outcome of the studies was not expected until the end of 2025. While the Applicant maintained its position that the Order could be granted without any requirement linked to TWUL's wastewater treatment capacity, without prejudice to this position, the Applicant proposed amendments to requirement 31 that would allow the commencement of dual runway operations either without the construction of an on-site wastewater treatment facility (if TWUL confirmed that its infrastructure could accommodate additional foul water flows) or with the construction of the on-site facility (if TWUL did not provide confirmation within two years from the making of the Order).

210. TWUL's response dated 19 December 2024 confirmed that discussions regarding its wastewater treatment capacity were being finalised but that, as a final agreement had not yet been signed, revisions should be made to requirement 31. In particular, TWUL proposed the removal of the two-year time period so that it could not be forced to accommodate flows in the event that there are delays in receiving relevant information and the time period expired.

211. The Secretary of State has noted that discussions between the parties regarding TWUL's wastewater treatment capacity are ongoing and the parties are invited to confirm whether a final position has been agreed on this matter, and if an agreement has not yet been reached, to indicate when this may be in place. Where an agreed position cannot be reached, both parties are invited to set out their final respective views on what, if any, amendments are now needed in order for requirement 31 to resolve the outstanding concerns.

Water supply

212. Like the ExA, the Secretary of State acknowledges the concerns regarding the additional demand the Proposed Development would place on water supply and water abstraction [ER 11.3.36]. Noting that Sutton and East Surrey Water confirmed that they could meet the increased demand for water [ER 11.3.39], the ExA was satisfied that the water supply required for the Proposed Development could be met [ER 11.3.40]. The Secretary of State is minded to agree.

Water quality

213. The Secretary of State has had regard to the concerns raised regarding the potential for water quality deterioration, particularly in the River Mole [ER 11.3.41].

214. The Secretary of State notes the Applicant's Water Framework Directive ("WFD") Compliance Assessment and its conclusion 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". As there were no representations during the Examination to contradict that conclusion, the ExA was satisfied that the Applicant had demonstrated compliance with the WFD legislation [ER 11.3.45]. The Secretary of State is minded to agree.

215. The Secretary of State notes that no outstanding issues remained between the parties in relation to water quality at the end of Examination [ER 11.3.46]. The Secretary of State is minded to agree with the ExA's conclusion that the Proposed Development would not have any likely residual significant adverse effects on water quality.

Conclusions on Water Environment

216. The ExA was satisfied that that there were no outstanding construction and operational issues relating to flood risk, water supply and water quality that could not be satisfactorily controlled by requirements 7, 23 and 24 of the rDCO [ER 11.4.1]. The Secretary of State is also minded to consider that these requirements would provide appropriate control for the potential impacts identified in Chapter 11 of the ES.

217. On the basis of the considerations above and with the adoption of the ExA's recommended requirement 31 [ER 11.3.32] the ExA considered that the Proposed Development accords with the ANPS, NNNPS and other relevant policy requirements and legislation and were satisfied that water environment matters should be given neutral weight in the planning balance [ER 11.4.5]. The Secretary of State is minded to agree.

Landscape and Townscape (National Landscapes)

218. The Secretary of State notes that the Applicant's assessment on landscape and townscape matters is set out in Chapter 8 of the ES and accompanying appendices [ER 12.2.1], which the ExA have summarised at ER 12.2.2 - 12.2.21. The Secretary of State is minded to agree with the ExA that the Applicant has provided an adequate ES assessing the landscape and visual impacts which meets the requirements set out in paragraphs 5.214 to 5.216 of the ANPS and paragraphs 5.144 to 5.146 of the NPSNN [ER 12.4.1 - 12.4.3]. The ES identified three National Landscapes ("NL"), that is the High Weald National Landscape ("HWNL"), located approximately 3 km from the Proposed Development, the Surrey Hills National Landscape ("SHNL"), and the Kent Downs National Landscape ("KDNL"), as well as the South Downs National Park ("SDNP") which could be impacted by the Proposed Development. The Applicant's ES concluded that HWNL, SHNL and KDNL would experience an increase in overflights of varying ranges, but no more than 20% as a worst-case scenario, resulting in minor adverse impacts on the NL and that there was no requirement for mitigation, a conclusion that Natural England ("NE") has agreed with [ER 12.4.33 and REP9-090].

219. The ANPS (paragraph 5.222) notes the duty to have regard to the purposes of NL also applies when considering projects that are outside the boundaries of these landscapes and also ascribes great weight to the conservation and enhancement of the landscape of NLs (paragraph 5.219).

220. The Secretary of State notes that LURA included a provision at section 245(5) to amend section 85 of the CRoW Act in relation to NLs. The amendment

to section 85 places a duty on relevant authorities “*in exercising or performing any functions in relation to or so as to affect land in an area of outstanding natural beauty*” (in England) that authority “*must seek to further the purpose of conserving and enhancing the natural beauty*” of the NL. When questioned on the implications of the amendment to section 85 of the CRoW Act, the Applicant, while acknowledging that the amendment strengthened the obligations, also reiterated its consideration that this did not mean that the Secretary of State must achieve a furthering of these purposes, and that NE were content that no mitigation is required in this instance [ER 12.3.25].

221. The ExA [ER 12.4.38] considered that the duty to ‘seek to further’ is a stronger, active duty, not a passive one and any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape could be furthered. The ExA concluded that although the Proposed Development would conserve NLs, the proposals do not enhance them [ER 12.4.40].

222. On 16 December 2024 DEFRA published ‘Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes’. This guidance is intended to clarify how the amended duty under section 85 of the CRoW Act 2000 to ‘seek to further’ the purposes of protected landscapes is intended to operate and provides broad principles to guide relevant authorities in complying with it. The Secretary of State invited the Applicant, NE, the Partnerships at the HWNL and the KDNL, the SHNL Board and the SDNP Authority to set out an agreed position on whether this new guidance has any implications for ensuring the Proposed Development complies with the amended duty.

223. In response to the Secretary of State’s request of 3 January 2025 in regard to the changes made by the LURA, the Applicant set out their position in relation to the amended section 85 duty in a letter dated 17 January 2025. Their position held during the Examination had not changed and the Applicant added that they considered the duty did not require the Secretary of State to ensure that the statutory purposes of NLs must be enhanced by individual development, regardless of the impact the project may or may not have on a NL. The Applicant argued that whilst the duty clearly has a role in development management, many of the relevant measures that it outlines are most likely to be appropriate for plan making and the delivery of initiatives promoted by the authority within the Protected Landscapes.

224. The Secretary of State, in line with the DEFRA guidance, considers that as the relevant authority, the duty should be applied in relation to the Proposed Development. This is in line with the DEFRA guidance, where ‘*decision making in respect of development management, planning applications and nationally significant infrastructure projects*’ is the second bullet pointed occasion under ‘*When to apply the duty*’. The Secretary of State is minded to agree with the ExA that whilst the Proposed Development may not cause harm to the conservation of the NLs, the Proposed Development has not sought to further enhance the statutory purposes of the NL [ER 12.4.38 – 12.4.40]. NE’s views on how the duty should be applied [ER 12.3.23] are reiterated in its consultation response of 17 January 2025 setting out that the new duty ‘*..goes beyond mitigation and like for like measures or replacement... 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.’ The Secretary of State considers that this is applicable in cases where mitigation has not been required within the ES, such as is the case for the Proposed Development.

225. Consultation responses from NE and the SHNL Board (14 January 2025), HWNL Partnership and SDNP Authority and NE (all dated 17 January 2025) confirmed that the gap of understanding of the new duty between the Applicant and the relevant NL authorities was so significant that further discussion would not be productive. NE added that they could not sign the Applicant’s draft response as it did not reflect their national position on the duty. All Interested Parties in relation to NLs felt that the Applicant had not sufficiently realised that the changes to the LURA were relevant. In addition to matters surrounding the consideration of the amended duty, concern was also conveyed regarding how the Proposed Development will impact negatively upon the tranquillity of the NLs due to the increase in flights. The HWNL Partnership suggested amendments to the noise requirements could satisfy the duty, and SHNL Board additionally suggested financial contributions to conservation and enhancement projects within the NL, preferably in the form of annual grants tied to the increase in passenger numbers. SDNP Authority would also favour financial grants to projects within the NL, and no response was received on this issue from the KDNL Partnership.

226. Taking into account the opposing views of the IPs and the Applicant, the Secretary of State, as the relevant authority in this regard, must ensure that the duty to seek to further the purposes of the NL has been met. The Secretary of State therefore gives the Applicant a further opportunity to explore and agree with NE, the Partnerships at the HWNL and the KDNL, the SHNL Board and the SDNP Authority further enhancement measures could be brought forward to ensure compliance with the section 85(A1) CROW Act duty in line with the DEFRA guidance, and provide any agreed provisions for inclusion in the Order, should the Secretary of State consider these necessary. The Secretary of State reminds the Applicant of NE’s advice in relation to applying the duty, which can also be found in their consultation response to this matter: *‘The proposed measures should align with and help to deliver the aims and objectives of the National Landscape’s statutory management plan. The relevant protected landscape team/body should be consulted.’* If no agreement is possible, the Secretary of State requests that the parties set out their respective views on what is needed to resolve the concerns.

Planning Balance

227. This letter does not constitute the final decision of the Secretary of State. When making the final decision, the Secretary of State will consider the weight provided to each of the principal issues in the planning balance.

228. The ExA’s consideration of the overall planning balance is set out in section 20.2 of the report. The Applicant’s draft DCO has been assigned the following weight by the ExA:

- The Principle and Need for the Proposed Development [ER 20.2.5], and Socio-economic Matters [ER 20.2.29], were assigned moderate, positive weight in favour of making the Order.

- Air Quality [ER 20.2.13], Climate Change [ER 20.2.23], Land Use and Recreation [ER 20.2.53], Other Matters [ER 20.2.54] Design [ER 20.2.65] were assigned neutral weight.
- Traffic and Transport [ER 20.2.7], Noise and Vibration [ER 20.2.9], Greenhouse Gas Emissions [ER 20.2.20] and Historic Environment [ER 20.2.42] were assigned moderate, negative weight. Water Environment [ER 20.2.32], Landscape and Townscape [ER 20.2.36], Ecology [ER 20.2.47], and Health and Wellbeing [ER 20.2.50] were assigned slight, negative weight against making the Order.

229. The ExA's recommended rDCO, has been assigned the following weight by them [ER 20.1.2]:

- The Principle and Need for the Proposed Development [ER 20.2.5], and Socio-economic Matters [ER 20.2.29], were assigned moderate, positive weight. Design [ER 20.2.65] was assigned slight positive weight in favour of making the Order.
- Noise and Vibration [ER 20.2.10], Air Quality [ER 20.2.13], Climate Change [ER 20.2.23], Water Environment [ER 20.2.32], Health and Wellbeing [ER 20.2.49], Land Use and Recreation [ER 20.2.53] and Other Matters [ER 20.2.54] were assigned neutral weight.
- Greenhouse Gas Emissions [ER 20.2.20] and Historic Environment [ER 20.2.42] were assigned moderate, negative weight. Traffic and Transport [ER 20.2.8], Landscape and Townscape [ER 20.2.36] and Ecology [ER 20.2.47] were assigned slight, negative weight against making the Order.

230. The Secretary of State will set out her final view on the planning balance in the final decision letter but is currently minded to consider that in relation to the ExA's rDCO, the matters in favour of granting consent, in particular the need and socio-economic benefits, outweigh those that weigh against.

NEXT STEPS

231. For the reasons stated in this letter, the Secretary of State considers that she is not yet in a position to decide whether to accept the ExA's recommendation. She is nevertheless currently minded to agree with the ExA that consent can be granted for the form of the Order recommended by the ExA subject to the matters set out above being satisfied.

232. The Applicant is invited to respond to the Secretary of State (to the Planning Inspectorate project email address at gatwickairport@planninginspectorate.gov.uk) by **24 April 2025** with any relevant information on the matters referred to in this letter summarised above. If it is not possible for the Applicant to address these matters within that time, the Applicant should submit an explanation of the reasons for this to the Secretary of State.

233. The Applicant's response will then be published on the Planning Inspectorate's website and comments will be invited from Interested Parties on those matters only.

234. The Secretary of State will consider the Applicant's response and any comments on the Applicant's response from Interested Parties in reaching her decision.

235. In order to allow time for these steps to be taken, the Secretary of State has set a new deadline following a statement issued today to the House of Commons as in accordance with section 107(7) of the 2008 Act.

Distribution

236. This letter is being published on the Planning Inspectorate's website and all interested parties are being notified of this so that they are aware of the information that is being requested and the extended timescale for reaching a decision on the Application.

Yours sincerely,

Gareth Leigh