ANNEX 4

APPLICANT'S RESPONSE ON OTHER MATTERS

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1. **INTRODUCTION**

1.1 This Annex 4 sets out the Applicant's response on the following matters on which the SoS invited comments in the MTL:

1.1.1 **Section 2** – protected landscape duties;

1.1.2 **Section 3** – measures to prioritise sustainable design;

1.1.3 **Section 4** – compliance with Regulation (EU) 598/2014; and

1.1.4 **Section 5** – wastewater treatment capacity and requirement 31 (construction sequencing).

1.2 This Annex also sets out brief further comments from the Applicant on three matters following its review of the ExAR and MTL:

1.2.1 **Section 6** – policy, need and benefits;

1.2.2 **Section 7** – greenhouse gas emissions;

1.2.3 **Section 8** – impacts on the rail network; and

1.3 **Section 9** of this Annex summarises the changes proposed by the Applicant to the requirements in the ExA's recommended DCO for the ease of reference of the SoS.

2. **PROTECTED LANDSCAPES DUTIES**

SoS' request

2.1 In MTL 15 the SoS acknowledges that she is the relevant authority for discharging the amended duty in section 85 of the Countryside and Rights of Way Act 2000 ("**CRoW**") in respect of national landscapes. She requested that parties *"reach agreement on what might be needed to meet this duty and provide any agreed provisions to be included in the Order accordingly".*

2.2 The Applicant draws the SoS' attention to the fact that her decision letter should also address the amended duty in section 11A of the National Parks and Access to the Countryside Act 1949 ("**NPACA**"), which is in very similar terms to that in section 85 of CRoW, given that the Proposed Development interacts with the South Downs National Park.

Applicant's response

Engagement

2.3 The Applicant has been engaging with the relevant protected landscape bodies both prior to and following the publication of the MTL by the SoS. During January 2025, the Applicant sought to agree a position statement with the South Downs National Park Authority (**"SDNP"**), Surrey Hills AONB Board (**"SHNL"**), Kent Downs National Landscape Partnership (**"KDNL"**), High Weald National Landscape Partnership (**"HWNL"**) and Natural England. SDNP was the only entity to engage in a meeting with the Applicant. It did not agree with the proposed position statement but did indicate a list of projects for funding support in order for it to consider the duty potentially fulfilled. All other bodies declined to discuss the position with the Applicant at that stage.

2.4 Following the publication of the MTL by the SoS, the Applicant again sought to engage with relevant protected landscape bodies and sent a letter to all such bodies and Natural England on 12 March 2025.

2.5 On 20 March 2025, Natural England wrote to the Applicant to confirm that they did not wish to be involved in any further engagement because they have reached the view that the Applicant has already adequately mitigated the effects of the Project.

2.6 SDNP responded on 21 March 2025 noting that all four bodies were acting collaboratively and requesting a meeting with the Applicant. A meeting took place on 4 April 2025 and in advance of this the Applicant circulated a slide deck to aid discussion. Only SDNP and KDNL attended the meeting – SHNL was invited but did not attend. HWNL declined to attend the meeting and, on 14 April 2025, confirmed that they would not discuss any proposal further because they disagreed with compensation as a solution.

2.7 The Applicant maintains its position, set out most recently in its Jan Response, that no further compensation or contribution is required for the SoS to satisfy the CRoW and NPACA duties given the limited impacts of the Proposed Development on the protected landscapes. However, in an effort to reach agreement, as requested in the MTL, the Applicant has offered a financial contribution to all four landscape bodies. Unfortunately this has not been agreed and so the Applicant must set out its position for the SoS.

Duty

2.8 To comply with the statutory duty on protected landscapes, the SoS must, in compliance with section 85 of CRoW and section 11A(1A) of NPACA, seek to further the purpose of conserving and enhancing (1) the natural beauty of areas of outstanding natural beauty (i.e. the national landscapes) and (2) the natural beauty, wildlife and cultural heritage of the area comprised in the national park, when performing its function in determining the DCO application.

Luton DCO decision

2.9 The Luton DCO decision is the only airport related DCO to be made following the update to the protected landscapes statutory duty. The decision, therefore, sets a clear precedent on the approach to be followed.

2.10 The SoS concluded in her decision that a financial contribution of £250,000 secured through the DCO for projects which further the purposes of conserving or enhancing the relevant national landscape for that project was "*sufficient and necessary to meet section 85 of the CRoW Act*" (Luton Decision Letter, paragraph 208) and that a financial amount of that quantum was "*reasonable and proportionate*" (paragraph 209).

2.11 The Luton approach cannot be considered in a vacuum and it is important to acknowledge the factual circumstances surrounding the SoS's conclusions when making the decision on that application. There, the project had identified adverse effects on the relevant national landscape within its ES, concluding a moderate adverse (significant) effect on the aesthetic or perceptual characteristics of the landscape within the Chilterns AONB during construction assessment Phase 2b (2037–2041) and during the operational period. Paragraph 14.9.20 of ES Chapter 14: Landscape and Visual (Luton document reference [AS-079]) noted effects "*principally due to the noticeable increase in aircraft movements that are anticipated to pass over the AONB below 7,000 ft (AMSL) during this period, associated with an increase from 21.5mppa to 32mppa*" and stated at paragraph 14.9.22 there would be operational effects "*principally due to the permanent lasting impacts resulting from works undertaken during construction, or due to residual impacts on perceptual characteristics (notably tranquillity) resulting from the increase in aircraft movements*".

2.12 The ExA on that application did not agree with Luton Rising, the applicant, that the magnitude of impact on relative tranquillity would be very low adverse (Luton Recommendation Report 3.8.61) and found "*that the increase in overflights arising from the Proposed Development would undermine the Special Quality of relative tranquillity rather than conserve or enhance it*" (Luton Recommendation Report 3.8.64). Furthermore, Natural England and the Chilterns Conservation Board both stated that they did not agree that the Luton Airport project complied with section 85 of CRoW (Luton Decision Letter, paragraph 205). However, the SoS was still able to take these conclusions of significant

adverse effects and find that a DCO provision providing for £250,000 worth of funding towards conserving or enhancing the relevant national landscape was sufficient, reasonable and proportionate and allowed her to discharge the CRoW duty.

2.13 Luton Rising, therefore, declared a significant effect on a protected landscape – in contrast to the Proposed Development here, which has no significant effects on such landscapes. Natural England and the ExA agreed on Luton; indeed, the ExA found that the impact would be greater than that assessed. It is also relevant that Luton Rising's increase in flight numbers (and overflying of protected landscapes) is greater than that forecast for the Proposed Development at Gatwick.[1]

Case law

2.14 In determining the appropriate approach to take regarding protected landscapes, the Applicant notes the recent *National Parks* decision of the High Court[2]. This case is the first judicial consideration of how the amended protected landscapes duty should be applied, and provides useful guidance that accords with the Applicant's previous submissions, albeit it related to development within a national park itself.

2.15 In that case, the Court decided that the Inspector had correctly discharged the duty in section 11A(1A) of NPACA (the "**National Parks Duty**") and upheld the decision to grant planning permission. In his judgment, Mould J considered the wording and interpretation of the National Parks Duty. He noted that the qualified drafting of the duty to *"seek to further"* the statutory purposes meant that the planning authority *"is not under a duty necessarily to fulfil those purposes"* [62]. He concluded that the National Parks Duty requires the decision-maker to *"consider whether the proposed development **will leave unharmed** the natural beauty, wildlife and cultural heritage of the National Park"* [86] (emphasis added). If satisfied that it will, the decision-maker has satisfied the duty and may grant planning permission. Mould J justified this position on the basis of how previous courts have interpreted the terms *"conserve and enhance*" to mean "*to not harm*" in other settings.

2.16 Mould J explicitly considered Natural England's statutory consultation response submitted on 15 December 2023 in relation to the Lower Thames Crossing DCO application and did not accept them, stating that "*in my view, it is not a necessary prerequisite for the proper discharge of the duty under s11A(1A) of the 1949 Act that the decision maker also determines whether the planning application proposed development which would enhance those characteristic features of the National Park*" [82]. The decision-maker satisfies the relevant duties by establishing that the proposed development will leave the protected landscape unharmed.

Key factors of the Proposed Development

2.17 Distinct from the facts of the Luton Airport project, the Applicant notes that its ES does not identify any significant effects on protected landscapes resulting from the Proposed Development.

2.18 **ES Chapter 8: Landscape, Townscape and Visual Resources** [APP-033] concludes the following regarding protected landscapes:

2.18.1 High Weald AONB: "*The sensitivity of the nationally designated landscape is high and the magnitude of change would be negligible, resulting in a minor adverse level of effect on its special qualities, which is not significant*". (Para 8.9.60)

2.18.2 Surrey Hills AONB, Kent Downs AONB and South Downs National Park: "*An increase in the future baseline situation of up to approximately 20% in the number of aircraft following the same flight paths may be discernible to some observers or barely perceptible as an increase to other observers. The magnitude of change would be negligible leading to minor adverse effects on the perception of tranquillity during the day and at night, which would not be significant. Some*

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1 Table 7.9 of the Luton Rising **Needs Case** [AS-125] shows a forecast increase of 71,300 aircraft movements pa with the project compared with the no development case.

2 *New Forest National Park Authority v MHCL & Anor* [2025] EWHC 726 (Admin).

people within the nationally designated landscapes may be unable to perceive the increase in the number of aircraft and would therefore experience no discernible effect to the level of tranquillity". (Para 8.13.19)

2.19 These findings were corroborated in the **SoCG agreed with Natural England** [REP9-090] which endorsed the methodology used and recorded agreement that "*the increase in flights in the Kent Downs AONB, Surrey Hills AONB and South Downs National Park is negligible in terms of magnitude, resulting in minor adverse impact upon the designated landscape, and will not require mitigation*."

2.20 In the ExAR, the ExA recognised this position and concluded the following in relation to nationally designated areas:

- "*The increase in overflights that the Proposed Development would generate in the KDNL, SHNL and the SDNP is low.* ***Additional harm would be minimal and does not require mitigation.*** *This also applies to those areas within the proposed extension to the SHNL.*
- *Effects on the HWNL are slightly higher, given the proximity of this NL and the projected increase in flights from flight paths including WIZAD. However,* ***adverse effects would still be low****. The same conclusion applies to Historic Parks and Gardens within this NL.*
- *The Proposed Development would not compromise the purposes of designation of the relevant nationally designated areas. With respect to the duty under s85 of the Countryside and Rights of Way Act 2000 (and s245 of the Levelling Up and Regeneration Act 2023),* ***the Proposed Development would conserve such areas, but would not enhance them***." (ExAR 12.4.40) (our emphasis).

2.21 The MTL summarises that "*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]*" (MTL 218).

2.22 Therefore, the Proposed Development will not have any significant adverse effects on any protected landscape and the ExA concluded that it would *"conserve such areas, but would not enhance them"* (ExAR 12.4.40). Applying the *National Parks* decision above, there remains no need for any additional compensation or financial contribution from the Applicant in order for the SoS to satisfy the CRoW and NPACA duties.

2.23 This notwithstanding, to provide maximum comfort to the SoS that she can grant the DCO and satisfy (and the Applicant submits, exceed) these duties, the Applicant is willing to make a financial contribution in the following terms.

Applicant's requirement

2.24 The Applicant proposes that the following provision be included in the DCO. This provision draws heavily on wording that was included by the SoS in the Luton DCO, where it was included as an article. The Applicant considers that it may properly be included as either a new article or new requirement.

2.25 For ease of administration, particularly given that not all of the landscape authorities appear to the Applicant to have separate legal personality, it is proposed that a total payment be provided to the South Downs National Park Authority for onward distribution to the other authorities as agreed between them. The Applicant does not wish to constrain the application of funds between the authorities and notes that the proposed form of funding it discussed with the landscape authorities was a consolidated payment for onward distribution and division.

2.26 The figure of £320,00 has been arrived at after engagement with the protected landscape authorities and reflection on the scale of funding considered sufficient by the SoS for the Luton DCO decision.

2.27 In seeking examples of projects which it might be appropriate to fund, the Applicant reviewed the Management Plans for each protected landscape, but none set out details of specific projects which could be funded to support and enhance tranquillity or dark skies. Through engagement, however, the Applicant was advised by SDNP of its prospective Dark Night Skies initiative, which requires funding for the promotion of its Dark Skies Reserve. The funding would be used for light monitoring and reporting; the annual Dark Skies Festival, including a special 10 year anniversary event; and the creation of a Dark Skies Engagement role to help raise awareness and enjoyment of the night sky. The sum sought was £80,000.

2.28 The Applicant has used this as a guide for its proposed total contribution. The Applicant proposes that it would fund a comprehensive and more than proportionate response in each of the protected landscapes to the Proposed Development's negligible impacts on tranquillity and dark skies. Multiplied across four protected landscapes with which the Proposed Development interacts, it generates a total of £320,000. It is suggested that the authorities should agree the best distribution of funds, applying the criteria set out in the Applicant's proposed requirement (see below).

2.29 Whilst this offer has been made to the four authorities, it has not been accepted. The Applicant understands that the authorities will write to the SoS setting out why they consider a greater fund is necessary. As part of their response, the Applicant understands that the authorities will reject the comparison with the Luton DCO on the basis that the Proposed Development interacts with four protected landscapes, not just one, as at Luton. In anticipation of that response and in support of its own proposal, the Applicant asks the SoS to consider the following:

2.29.1 Defra's 'Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes' (December 2024) emphasises that any response must be "*appropriate, reasonable and proportionate*". The effects of the Proposed Development are demonstrably (and agreed by comparing the respective ExA reports and the MTL) to be less at Gatwick than at Luton. That is also the documented position of Natural England.

2.29.2 It is spurious to suggest that they must be multiplied by four because there is some effect on four protected landscapes – the effects fall to be considered on their merits and they are demonstrably small scale, however many protected landscapes may be marginally affected.

2.29.3 To put this into proper perspective, **Appendix 1** to this Annex 4 contains an extract from the slide presentation provided by the Applicant to the landscape bodies at the meeting in April 2025. It shows:

(A) that Gatwick is well located and oriented to minimise its effects on the protected landscapes;

(B) that the ES assessment that overflights may increase by 20% is very much a worst case, affecting only small parts of KDNL and SHNL to that extent;

(C) whilst acknowledging that noise impact is only one consideration in questions of tranquillity, it is nevertheless relevant that the LOAEL contours for the Proposed Development only just engage with the outer fringes of KDNL and have no impact on other protected landscapes; and

(D) apart from that small incursion into the KDNL, noise changes in the protected landscapes would not be perceptible.

2.30 Against that background, GAL commends the following article/requirement to the SoS:

Conservation and enhancement of protected landscapes

(1) Prior to the commencement of dual runway operations, the undertaker shall make a funding contribution of £320,000 to the South Downs National Park Authority for use by that authority and onward distribution to the High Weald National

Landscape Partnership, Kent Downs National Landscape Partnership and Surrey Hills AONB Board in such proportion as is agreed between themselves.

(2) Each entity in sub-paragraph (1) must allocate its portion of the funding contribution to one or more projects—

(a) that further the purposes of conserving or enhancing the relevant protected landscape; and

(b) in a manner consistent with the management plan in effect from time to time for that protected landscape.

(3) Upon any allocation of funding in accordance with sub-paragraph (2), the relevant entity must notify the undertaker and provide the undertaker with such information about the project or projects to which funding has been allocated as the undertaker may reasonably request.

(4) If the undertaker reasonably requires, the relevant entity must ensure appropriate acknowledgement of the undertaker as having funded the project or projects to which funding is allocated.

(5) In this [article/requirement], "relevant protected landscape" means the High Weald National Landscape for the High Weald National Landscape Partnership, the Kent Downs National Landscape for the Kent Downs National Landscape Partnership, the South Downs National Park for the South Downs National Park Authority and the Surrey Hills National Landscape for the Surrey Hills AONB Board.

2.31 The Applicant notes that the equivalent form of provision included in the Lower Thames Crossing DCO did not specify the financial amount on its face but rather deferred this to be agreed post-consent between the undertaker, Natural England and the relevant landscape body, contrary to the approach taken later in the Luton DCO. The Applicant considers that the approach taken for the Luton DCO is strongly preferable. On the basis of the above and the Applicant's previous submissions, the SoS can be confident that including the specified amount proposed by the Applicant allows the SoS to satisfy (and, the Applicant submits, exceed) the relevant duties. Doing so will ensure that the delivery of the Proposed Development is not delayed by disagreement between the Applicant and landscape bodies as to the quantum of the contribution. This is particularly likely given the approach of these bodies in the latest round of engagement with the Applicant, and the refusal of HWNL to engage in discussions at all. The SoS has all the necessary information to conclude that a figure is reasonable and proportionate, as she did for the Luton DCO.

3. SUSTAINABLE DESIGN

3.1 In MTL 15 the SoS invites the Applicant to set out what further measures could be brought forward to prioritise sustainable design and in turn reduce carbon during construction and operational phases of the Project.

3.2 The Applicant's current approach for new buildings is to commit to BREEAM Excellent rating within the Water Category only. This approach has been based on the behaviour-driving outcomes of the **Carbon Action Plan** [REP8-054] which the Applicant must comply with through construction and operation. Most specifically in relation to design, the Carbon Action Plan requires the Applicant to drive down Scope 1 and 2 GHG emissions across the Project. For the Outcomes in the Carbon Action Plan to be achieved, the Applicant will need to prioritise sustainable design across the Project.

3.3 Nonetheless, the Applicant proposes amending Design Principle BF4 in the **Design Principles** [REP9-062] to read as follows to provide the SoS with additional comfort through a direct commitment:

"New buildings will be designed to maximise energy and water efficiency and to meet the standards for BREEAM 'Excellent' rating (or equivalent at the time of concept design) except where the building typology dictates that it is not practical. The requirements will be fixed to the most recent version of BREEAM available at concept design stage."

3.4 By way of reminder, the Design Principles are secured by virtue of requirements 4(3) (detailed design), 5(2)(a) (local highway works – detailed design), 6(2)(a) (national highway works) and 10(3) (surface and foul water drainage).

3.5 This commitment is to the same standard as has been approved in relation to the Luton DCO.

3.6 If agreeable to the SoS, the Applicant will make this minor amendment to the final version of the Design Principles before it submits that document for certification pursuant to article 52 (certification of documents, etc.) of the DCO.

4. COMPLIANCE WITH REGULATION EU 598/2014

4.1 In MTL 15 the SoS notes the need to comply with Regulation (EU) No. 598/2014 ("**Regulation 598**") before introducing a noise-related operating restriction at London Gatwick pursuant to this DCO application. Clearly, compliance with this regulation is a matter on which the SoS must take her own legal advice. However, the SoS may find the following considerations helpful.

4.2 Regulation 598 has at its heart the prevention of arbitrary operating restrictions being imposed which will restrict the capacity of an airport. It requires that a specific Noise Objective be set and then that measures to achieve this Noise Objective are evaluated against the four elements of the ICAO Balanced Approach. These are sequentially: foreseeable reductions of noise at source, land use planning, altered operating procedures and, as a last resort, operating restrictions.

4.3 If the proposed measure has the characteristics of an operating restriction, then consultation is required with all the parties who could be affected by it.

4.4 For its application the Applicant proposed a Noise Objective, evaluated options to achieve it and identified that a noise envelope contour limit, based on a conservative Slow Fleet Transition Forecast, could become an operating restriction if airlines were unable to maintain their rate of fleet replacement. The Applicant undertook consultation in compliance with Regulation 598. The details of this are set out in Annex 1 to **ES Appendix 14.9.5 Air Noise Envelope Background** [APP-175] (the "**Reg 598 Table**").

4.5 During the examination the Applicant provided an Updated Central Case forecast [REP4-004] ("**UCC**") which took into account the post-Covid recovery and the current headwinds facing aircraft production. The Applicant considered the UCC a more likely outcome for how fleet transition will progress in the short to medium term than its original Central Case ("**CC**"). The Applicant consequently proposed a new noise envelope limit based on the UCC, whilst explaining that the Slow Fleet Transition Forecast remained a robust and appropriate sensitivity case. This change did not require it to revisit its Noise Objective, as the underlying principle that airlines would seek to renew their fleets remained the same.

4.6 The ExA's proposed form of requirement 15 (air noise limits) constitutes a further development of the Applicant's noise envelope.

Reg 598 Article 6(d) consultation requirement

4.7 The requirement on the SoS in relation to new noise operating restriction measures is to consult in accordance with Article 6(d) of Regulation 598, as below:

> *"(d) the process of consultation with interested parties, which may take the form of a mediation process, is organised in a timely and substantive manner, ensuring openness and transparency as regards data and computation methodologies. Interested parties shall have at least three months prior to the adoption of the new operating restrictions to submit comments. The interested parties shall include at least: (i) local residents living in the vicinity of the airport and affected by air traffic noise, or their representatives, and the relevant local authorities; (ii) representatives of local businesses based in the vicinity of the airport, whose activities are affected by air traffic and the operation of the airport; (iii) relevant airport operators; (iv) representatives of those aircraft operators which may be affected by noise-related actions; (v) the relevant air navigation service providers; (vi) the Network Manager,*

as defined in Commission Regulation (EU) No 677/2011 (2); (vii) where applicable, the designated slots coordinator."

The Applicant's position in the examination

4.8 The Applicant discussed compliance with Regulation 598 in its Reg 598 Table and its **Closing Submissions** [REP9-112] (para. 11.5.12 onwards).

4.9 The Applicant's position has always been that the DCO process is an iterative process of engagement and consultation, both during pre-application consultation and the examination itself. The Applicant wrote to all parties who would not ordinarily be consulted during the DCO process but are required to be consulted by virtue of Article 6(d) of Regulation 598 (i.e. BAR, Airline UK, ACL, NATS, Eurocontrol, the main airports in the south-east of England, and over 60 airlines using Gatwick) (the "**Reg 598 Extra Parties**"). As stated by the Applicant (see p5 of the Reg 598 Table), that iterative consultation process was envisaged to include *"any further consultation undertaken by the Secretary of State to satisfy his required processes under Regulation 598".*

Consultation by the SoS on the revised air noise limits (requirement 15)

4.10 The Applicant assumes that the SoS may be minded to consult on the revised version of requirement 15 now proposed (either with 125 km^2 or 135 km^2) as the limit for the first to fifth years post-CDRO ("**Reg 598 Consultation**"). Subject to the SoS' own legal advice, such Reg 598 Consultation could be undertaken in parallel to any consultation the SoS invites in relation to this response ("**DCO Consultation**"), as part of the final stage of the DCO application process. If so, this parallel consultation could occur as follows:

4.10.1 **DCO Consultation**: a one-month consultation on the Applicant's full response (this response) to all issues in the MTL, including requirement 15 (air noise limits). This consultation would go out to all Interested Parties. It could make clear that any comments made in relation to requirement 15 will be taken into account by the SoS for the purpose of the parallel Reg 598 Consultation; and

4.10.2 **Reg 598 Consultation**: a consultation of a minimum of three months carried out in parallel to the DCO Consultation, but focused solely on requirement 15. This consultation could go out to all Interested Parties, plus the Reg 598 Extra Parties. It could make clear that Interested Parties need not comment again if they have commented on requirement 15 as part of any response to the DCO Consultation.

4.11 This approach provides all consultees with three months to comment on the air noise limits (putting beyond doubt compliance with the three months required by Regulation 598), but also ensures that any further rounds of consultation or representations in relation to the DCO are kept moving during that three month period.

4.12 There is an argument that there is no need for a further three-month Reg 598 Consultation to meet the duty under Article 6(d), on the basis that the consultation process is an iterative one from pre-application to decision. The SoS should take her own legal advice on this point if she were minded not to carry out a further consultation. In any event, the Applicant requests that any consultation process commence as soon as possible such that a final decision on the application can be taken at the earliest opportunity.

5. REQUIREMENT 31 AND WASTEWATER

SoS' request

5.1 In MTL 211 the SoS invited the Applicant and Thames Water Utilities Limited ("**TWUL**") to confirm whether an agreed position had been reached on wastewater treatment capacity and, if not, to set out what amendments are required for requirement 31 to resolve the outstanding concerns.

Applicant's response

5.2 TWUL has confirmed in discussions with the Applicant that it is very unlikely that all hydraulic modelling required for it to confirm whether wastewater flows can be accommodated by its existing infrastructure will be completed prior to the revised deadline for the SoS' decision on this application in October 2025. The Applicant and TWUL have therefore continued discussions regarding a mutually acceptable form of requirement 31 (construction sequencing) and the Applicant is pleased to report that they have reached agreement on the following form of requirement:

[Sub-paragraphs (1) and (2) as per the ExA's draft]

(3) The undertaker must prepare and provide to Thames Water Utilities Limited a development phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and ten years after the commencement of dual runway operations. The development phasing plan must include detailed forecasts of the wastewater discharge rates and expected connection points for the authorised development throughout this period and be based on hydraulic modelling undertaken by Thames Water Utilities Limited or the undertaker in consultation with Thames Water Utilities Limited and validated by Thames Water Utilities Limited in writing.

(4) If the hydraulic modelling is undertaken by the undertaker in consultation with Thames Water Utilities Limited—

(a) Thames Water Utilities Limited will provide a formal review and response within 3 calendar months of receipt of the undertaker's hydraulic modelling, which will either indicate the results are validated or the steps required to validate the results;

(b) the undertaker will comply with those steps in order to achieve validation of their hydraulic modelling for submission to Thames Water Utilities Limited within a further 3 calendar months; and

(c) Thames Water Utilities Limited will respond to the updated submission within 3 calendar months of receipt.

(5) If, when responding under sub-paragraph (4)(c), Thames Water Utilities Limited concludes that the undertaker has not complied with the steps pursuant to sub-paragraph (4)(b), this question shall be referred to an independent Chartered Engineer (to be agreed between Thames Water Utilities Limited and the undertaker or, if not agreed, to be appointed by the President of the Chartered Institute of Water and Environment Management upon the request of either party). The decision of the Chartered Engineer is binding as to whether the hydraulic modelling is validated for the purpose of sub-paragraph (3).

(6) The details in the development phasing plan provided pursuant to sub-paragraph (3) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book.

(7) Thames Water Utilities Limited must confirm in writing within twelve months of the provision of the development phasing plan pursuant to sub-paragraph (3) whether its infrastructure will be able to accommodate the additional foul water flows from the airport for the ten-year period after the commencement of dual runway operations.

(8) The commencement of Work No. 44 (wastewater treatment works) must not take place until either—

(a) Thames Water Utilities Limited confirms that its infrastructure will not be able to accommodate the additional foul water flows;

(b) Thames Water Utilities Limited has not provided any confirmation pursuant to sub-paragraph (7) within the time period specified therein; or

(c) Thames Water Utilities Limited has not responded pursuant to sub-paragraph (4)(a) or (4)(c) within the time period specified therein,

unless otherwise agreed in writing by Thames Water Utilities Limited.

(9) The commencement of dual runway operations must not take place until either—

(a) Work No. 44 (wastewater treatment works) has been completed, and an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 for its operation; or

(b) Thames Water Utilities Limited confirms that its infrastructure will be able to accommodate the additional foul water flows,

unless otherwise agreed in writing by Thames Water Utilities Limited.

5.3 The Applicant encloses as **Appendix 2** to this Annex 4 a letter from TWUL confirming its agreement to this drafting.

6. POLICY, NEED AND BENEFITS

6.1 The Applicant does not understand why the ExAR and the MTL are very different from, and not consistent with, other recent airport planning decisions when it comes to the weight to be attached to policy, need and the benefits of the project – either in their own right or in the planning balance to be struck. Examples are provided further below.

6.2 The Applicant's case is summarised in its **Closing Submissions** [REP9-112] at sections 3 and 4. Those sections set out the exceptional and critical importance of aviation to the UK and of the government's consistently strong policy support. Those sections are commended again to the SoS and not repeated here.

6.3 One theme they set out is that the case made against the Proposed Development was not balanced in the sense that it did not recognise the strength of government policy support, the importance which government policy attaches to aviation or the significance of the scale of the project's benefits. In light of now reviewing the information published on the 27 February 2025, the Applicant considers that both the ExAR and the MTL have underestimated the policy support for and the benefits arising from the Proposed Development. The weight attached to these matters in the overall planning balance is not consistent with other airport planning decisions and does not accurately reflect the significance of the benefits generated.

6.4 The policy case is addressed in MTL paras. 29-43. The text there is concerned with questions of compliance (which are answered positively) but there is no recognition of the strength and importance of policy support. This carries over from the ExAR, which has a 'Policy' heading at Section 4 but does not acknowledge the strength and importance of the strong support for aviation and its critical contribution to national economic and other objectives. No conclusions are reached on these matters at ExAR 4.2.62 (despite the heading: the ExA's 'Overall Conclusions on Policy').

6.5 Similarly, in relation to need and demand (addressed at paras. 44 to 80), the MTL follows the ExA's acceptance of both but is minded to agree with ExAR 4.5.12 and 20.2.5 that only "moderate" weight should be attached to the need for aviation capacity.

6.6 The MTL does not deal with the economic and other benefits of the Proposed Development but does report (at para. 228) that the ExA again assigned "moderate" weight to these matters (ExAR 10.3 and 20.2.29). The ExA appears to accept without criticism that the project would generate significant employment and generate local and national growth, but it does not explain why this attracts only moderate weight.

6.7 The examples below set out a brief summary of the way in which the same matters have been treated elsewhere in other recent airport planning decisions. These all show the considerable and significant or substantial weight that should be attached to policy support and the benefits (all emphasis added).

6.8 **London Luton Airport Expansion DCO decision dated 3 April 2025**

*"The Secretary of State agrees that **great positive weight** should be attributed to the need for the Proposed Development in the context of supporting national aviation policy for airports to make best use of existing runways (subject to environmental considerations being addressed) and because of the strategic economic case."* (para. 68)

*"Overall, the Secretary of State agrees with the ExA that the need case for the Proposed Development attracts great positive weight in favour of the Order being made (but unlike the ExA, and as set out in the Planning Balance section below, she considers that **the need, capacity and socio-economic benefits carry decisive weight in the planning balance**)"* (para. 68)

*"The Secretary of State disagrees and considers that **the economic and consumer benefits the Proposed Development would deliver are so substantial** that they would outweigh the adverse environmental impacts identified."* (para. 69).

6.9 **London City Airport recovered appeal decision dated 19 August 2024**

*"For the reasons given at IR14.167 to 14.191, the Secretaries of State agree with the Inspectors at IR14.192 that **the package of benefits is substantial, and that these benefits substantially weigh in favour**"* (para. 19)

*"Weighing in favour of the proposal are **social-economic benefits, which carry substantial weight**."* (para. 29)

6.10 **London Luton Airport – 'P19' decision dated 13 October 2023**

*"The socio-economic effects of the scheme **carry considerable weight** in favour of the proposal."* (para. 45)

6.11 **Manston Airport decision dated 18 August 2022**

*"The Secretary of State considers that granting consent would serve to implement Government aims on General Aviation activities and therefore places **substantial weight** on the contribution the Development would make in this respect."* (para. 62)

*"The Independent Assessor considered that a delay in the opening of the Heathrow Northwest Runway project is likely, and that this **strengthens the need** for the Development."* (para. 96)

*"The Secretary of State therefore places **substantial weight** on the capacity that this Development will deliver in the South East of England."* (para. 125)

*"The Secretary of State agrees with the Examining Authority that socio-economic impacts weigh in favour of the Development but **disagrees that this would only carry moderate weight** in favour of the Development [ER 8.2.183]. The Secretary of State places **substantial weight on the socio-economic benefits** that are expected to flow from the Development"* (para. 195)

*"The Secretary of State is also satisfied that **the Development would support Government's policy objective to make the UK one of the best-connected countries in the world and for the aviation sector to make a significant contribution to economic growth of the UK**. The Secretary of State also considers that the Development **complies with Government aviation policies that support airports making best use of their existing capacity and runways**. **Substantial weight** is given by the Secretary of State to the conclusion that the Development would be in accordance with such policies and that granting development consent for the Development would serve to implement such policy."* (para. 200)

6.12 **Stansted Airport expansion decision dated 26 May 2021**

*"In addition, the scheme receives **very strong support from national aviation policy**. Taken together, **these factors weigh very strongly in favour of the grant of planning permission**. Furthermore, the development would deliver significant additional employment and economic benefits, as well as some improvement in overall noise and health conditions."* (para 156)

*"Overall, **the balance falls overwhelmingly in favour of the grant of planning permission**. Whilst there would be a limited degree of harm arising in respect of air quality and carbon emissions, **these matters are far outweighed by the benefits of the proposal** and do not come close to indicating a decision other than in accordance with the development plan. No other material considerations have been identified that would materially alter this balance."* (para. 158)

6.13 National aviation policy support has not been diluted since those decisions were made. In fact, the SoS confirmed the critical importance of the aviation sector as recently as 18 March 2025, in the following terms:

"[Investments in the aviation sector] reveal airports not only as hubs for travel, but hubs for growth – driving jobs, creating opportunity and facilitating the trade which underpins our way of life.

Now more than ever, you need a government that recognises this. That's why we see airports as a crucial pillar of our Plan for Change. And it's why we've acted, and acted quickly, across 3 areas – starting with expansion."[3]

6.14 Importantly, the assessed benefits of the Proposed Development at Gatwick are greater than the benefits assessed for any of the projects cited above. These include not only the increased resilience which a fully functioning repositioned northern runway at Gatwick provides to the airport system in the Southeast, it also includes very substantial economic benefits. Again, the Applicant does not set them out again in detail here (please see the Applicant's **Closing Submissions** [REP9-112] at Section 10) but extracts the following:

> *"There is no dispute that the Project would deliver substantial direct, indirect and induced job creation and related GVA as concluded in the local economic impact assessment. By 2029, an additional 4,500 jobs and £310m in GVA will be created per annum in the Six Authorities area covering West Sussex, East Sussex, Surrey, Kent, Brighton and Hove and the London Borough of Croydon. It is then expected to lead to an additional 14,000 jobs and £1bn of GVA in 2032, 13,700 jobs and £1.05bn of GVA in 2038, and 12,800 jobs and £1.1bn of GVA in 2047."*
>
> (Closing Submissions, para. 28.3.4)

6.15 These are based on an increment of 13mppa from the Proposed Development. If, as the ExA believes, the additional capacity facilitated by the Proposed Development is instead up to 17mppa (i.e. 30% higher than the Applicant's estimate) then the benefits would also be approximately 30% higher as they are directly related to the runway capacity.

6.16 In addition to benefits to the local economy around the airport, the Proposed Development will deliver wider economic benefits across the country. These include around £2.4bn of

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[3] Secretary of State for Transport speaking at the AirportsUK annual dinner – available at https://www.gov.uk/government/speeches/securing-the-future-of-aviation

additional GVA from inbound tourism and a further £1.8bn of GVA from increased trade (see **Needs Case** [APP-250] paragraphs 8.9.1 and 8.9.2). The TAG-compliant **National Economic Impact Assessment** [AS-164] identified welfare benefits with a Net Present Value of £15.2bn and this excludes a number of important benefits from productivity gains and increases in trade and foreign direct investment.

6.17 From an analysis of recent airport planning decisions, no project with this scale of benefits should (or has ever) been described as “modest”.

6.18 It would not be rational to attach less weight to these matters for the proposed development at Gatwick and therefore we respectfully request that the SoS consider these matters again and attach the appropriate weight to these matters in the overall planning balance.

6.19 In the interests of fairness and consistency, these matters should be attributed the undoubted and considerable weight they deserve.

7. GREENHOUSE GAS

7.1 In MTL 16 the SoS confirms that she will set out her full consideration of matters including Greenhouse Gas Emissions in her final decision. With this in mind, the Applicant wishes to point out what appears to be an error in the ExA's analysis of the greenhouse gas emissions arising from the Proposed Development.

7.2 The ExA appears to conclude in the ExAR (in particular in paragraphs 8.5.13 and 23.2.2) that the Proposed Development's emissions would have a material impact on the Government's ability to comply with its carbon reduction targets and so would be contrary to paragraph 5.82 of the ANPS and paragraph 5.18 (though the ExA potentially means to refer to 5.42) of the NNNPS. In the planning balance, the ExA ascribes this finding moderate weight against the granting of consent.

7.3 The Applicant believes that the ExA's assessment is flawed in that it appears to conflate the airport's emissions as a whole with the Proposed Development's emissions. The latter is the figure that addresses *"the increase in carbon emissions resulting from the project"* for the purposes of paragraph 5.82 of the ANPS. This figure was not addressed sufficiently by the ExA in its concluding assessment of significance, despite the Applicant providing information on and relying on project-related emissions which produced a substantially lower figure.

7.4 The Applicant's assessment was based on the IEMA Guidance and contextualised against national carbon budgets. The IEMA Guidance suggests that an indicative threshold of 5% of the UK carbon budget in the applicable time period should be used as the threshold above which an impact is likely to be significant and that: "*A **project** that meets this threshold can in itself materially affect achievement of the carbon budget*" (emphasis added).

7.5 At ExAR 8.5.12, the ExA states that: "*the Applicant's own assessment indicates an effect of over 3.4%*" then goes on to note that this does not include the effects of non-CO2 emissions, international inbound flights and fuel produced outside the UK. The ExA concludes that were these other unquantified factors to be included the "*threshold is likely to be reached and a significant adverse effect in EIA terms should be recorded*."

7.6 However, the figure of 3.4% represents the emissions from the airport as a whole and does not relate to the increase in emissions attributable to the Proposed Development. The impact of the Proposed Development is far smaller. Aggregate emissions were considered in the Applicant's ES (Table 16.9.13 of [REP4-005]), and updated in a revised Table 19.9.13 included in the **Greenhouse Gases Technical Note** [REP9-120]. That table states that the highest contribution the Proposed Development would make to the Sixth Carbon Budget is 0.657%. There is therefore no reason to believe that, even factoring in the other emissions that the ExA considers not to have been quantified, the IEMA threshold of 5% of the UK carbon budget would be exceeded.

7.7 In any event, the Applicant is concerned about the manner in which the ExA reached its view on compliance with this threshold.

7.8 The ExA appears to accept in relation to non-CO2 emissions that these cannot be quantified: *"any methodology must produce plausible outcomes and too many uncertainties create problems for quantifying results"* (ExAR 8.4.29). It concludes that *"a qualitative judgment would be more appropriate"*, leading to the view that *"the proposed development would add to the magnitude of impacts"* (ibid).

7.9 The Applicant has not disputed that there would be some additional non-CO2 effects arising from the Project, but did not include any quantification of these in its assessment because, like the ExA, it did not consider that any sufficiently robust quantification could be carried out. However, the ExA later relies on non-CO2 emissions (see ExAR 8.4.106) as one of several elements *"which cannot be contextualised against UK carbon budgets"* to conclude that beyond the 3.459% contribution to the Sixth Carbon budget assessed by the applicant, the 5% threshold is likely to be reached for the *"project as a whole"*. Notwithstanding that this figure does not relate to the *"project"*, the ExA, having concluded that non-CO2 effects cannot be quantified, then includes a notional but unarticulated quantification when reaching its view that the 5% threshold is likely to be crossed. The Applicant does not consider that the ExA discloses a logical basis to do so when reaching a quantified view on compliance with the threshold.

7.10 More generally, the conclusion is based on adding onto the 3.459% figure elements which the ExA acknowledges cannot be contextualised against UK carbon budgets. This fails to appreciate that the 5% threshold itself, as drawn from the IEMA Guidance, is based on a contextualisation against the UK carbon budget: *"An indicative threshold of 5% of the UK or devolved administration carbon budget in the applicable time period is proposed, at which the magnitude of GHG emissions irrespective of any reductions is likely to be significant. A project that meets this threshold can in itself materially affect achievement of the carbon budget"* (p. 27, section 6.3). The ExA conclusion (that the 5% threshold would likely be crossed) is therefore predicated on including elements which would be inconsistent with the proper application of IEMA Guidance. It includes emissions which it accepts cannot be contextualised against the UK budget in a notional threshold calculation that is designed to indicate the effect of a project on the emissions that count towards that budget. The Applicant considers that this approach is flawed and fundamentally undermines the conclusion reached, both in relation to the IEMA Guidance and policy.

7.11 The Applicant notes the SoS' conclusions on the Luton DCO, which accord with the Applicant's approach here (Luton Decision Letter, paragraph 220 onwards).

7.12 For all these reasons we consider that the correct approach is for the SoS to conclude that the increase in carbon emissions resulting from the project is clearly not so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. We also note the conclusion of the ExA (ExAR. 8.4.11) that *"it can be expected that IP concerns about the uncertainty surrounding the means to achieve the objectives in the JZS can be addressed through proactive monitoring and intervention commitments in the JZS and Jet Zero Strategy: One Year On (July 2023) with multiple solutions provided to achieve objectives"*. The ExA also concluded that *"it is reasonable to conclude that the means for achieving [the government's] net zero obligations under the CCA2008 would be met"* (ExAR 8.4.12).

7.13 The ExA's conclusions that (i) a significant adverse effect in EIA terms for greenhouses gases should be recorded, (ii) the Proposed Development is contrary to paragraphs 5.82/5.83 of the ANPS and (iii) moderate adverse weight should be afforded for GHG emissions are all unsound. The Applicant respectfully requests the SoS to take this into account in her conclusions on these matters.

8. RAIL MITIGATION AND ENHANCEMENT FUND

8.1 The ExAR states at para 5.3.23:

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

8.2 The Applicant respectfully invites the SoS to consider the weight to be given to this conclusion by the ExA given that no issues remained in contention by the end of the examination between the Applicant and Network Rail, which withdrew its objection [REP10-031] having been satisfied with the measures secured by the Applicant. Network Rail is undoubtedly the best authority on whether unmitigated impacts on the rail network are likely to arise due to the Proposed Development with the proposed mitigation package in place. The ExA has not provided any evidence to substantiate why its concerns should be preferred to the view of Network Rail and no compelling evidence was presented during the examination on which the ExA could rely to contradict the Applicant's and Network Rail's position.

8.3 In particular, the ExA does not address the full detail of the interventions in the SACs which include (at Commitment 14A) measures not only to improve capacity at Gatwick Station, but also to enhance the capacity of the rail network. These include assessing the potential for signalling upgrades to allow additional services; timetable consultations in order to meet passenger demand requirements; and the provision of a substantial £10 million fund to mitigate the effect of the Project on the rail network - through initiatives identified as beneficial by Network Rail and the rail operators themselves. This commitment also needs to be viewed in the wider context of others that are directed at achieving enhanced mode shares, which will plainly include travel by rail.

8.4 The Applicant discussed the commitments secured in the SACs in its **Closing Submissions** ([REP9-112] paras 12.3.23-12.3.38), including the commitments specifically identified to address concerns raised by Network Rail in relation to rail network capacity, rail crowding modelling and station capacity. Paragraph 12.3.34 of the Applicant's closing submissions state: "*The measures and funding required pursuant to Commitment 14A will work alongside the other commitments to facilitate achievement of the mode share commitments and the STF[4] and the TMF[5] could also be used to contribute to rail interventions if required*."

8.5 At the end of the examination, Network Rail confirmed that it did not object to the Proposed Development on the basis of the package of measures proposed by the Applicant to address concerns relating to rail network capacity as a result of the Proposed Development, including congestion and passenger crowding issues. Those measures are described in further detail in paragraphs 2.1 and 3.4 in particular of the **Network Rail Principal Areas of Disagreement Summary Statement (PADSS)** [REP9-163], and cover a more extensive suite of measures beyond just the REF and Rail Monitoring and Enhancement Plan.

8.6 In light of the above, it would be entirely rational for the SoS to acknowledge that the ExA's outstanding concerns were based on a more limited package of mitigation measures than what is actually proposed by the Applicant and instead conclude that the Applicant's SACs (as amended) are sufficient and robust mitigation for rail network capacity issues.

[4] The Sustainable Transport Fund (Surface Access Commitment 13)
[5] The Transport Mitigation Fund (Surface Access Commitment 14)

9. **SUMMARY OF PROPOSED AMENDMENTS TO DCO**

9.1 For the ease of reference of the SoS, the Applicant summarises as follows in a single location the amendments it proposes to the ExA's recommended form of DCO and the explanation it has provided for these proposed changes:

New article/requirement (Conservation and enhancement of protected landscapes)	Section 2 of this Annex 4 to this Response
Addition of definition of "airport passengers" to paragraph 1 (interpretation) of Schedule 2 (requirements)	Dec Response – page 8
Addition of interpretation provision regarding "air noise contours" in paragraph 1 of Schedule 2	Section 4 of Annex 1 to this Response
Amendments to requirement 2(3) and (4) (phasing scheme)	Dec Response – page 8 (supplemented in Jan Response – page 12)
Amendments to requirement 15 (air noise limits)	Annex 1 to this Response
Amendments to requirement 18 (receptor-based noise mitigation)	Annex 2 to this Response
Addition of definition of "passenger throughput" to requirement 19 (airport operations)	Dec Response – page 24
Amendments to requirement 20 (surface access)	Annex 3 to this Response
Amendments to requirement 31 (construction sequencing)	Section 5 of this Annex 4 to the Response
Amendments to requirement 37 (car parking spaces)	Dec Response – page 33
Amendments to requirement 39 (tree balance statement)	Dec Response – page 34

9.2 **Appendix 3** to this Annex 4 is a consolidated copy of Schedule 2 (requirements) showing the Applicant's proposed drafting for that Schedule, again for the ease of reference of the SoS. The 'Conservation and enhancement of protected landscapes' drafting is not included in this in case the SoS wishes to include this as an article rather than a requirement.

APPENDIX 1 TO ANNEX 4
EXCERPTS FROM SLIDES PRESENTED TO PROTECTED LANDSCAPE BODIES IN APRIL 2025

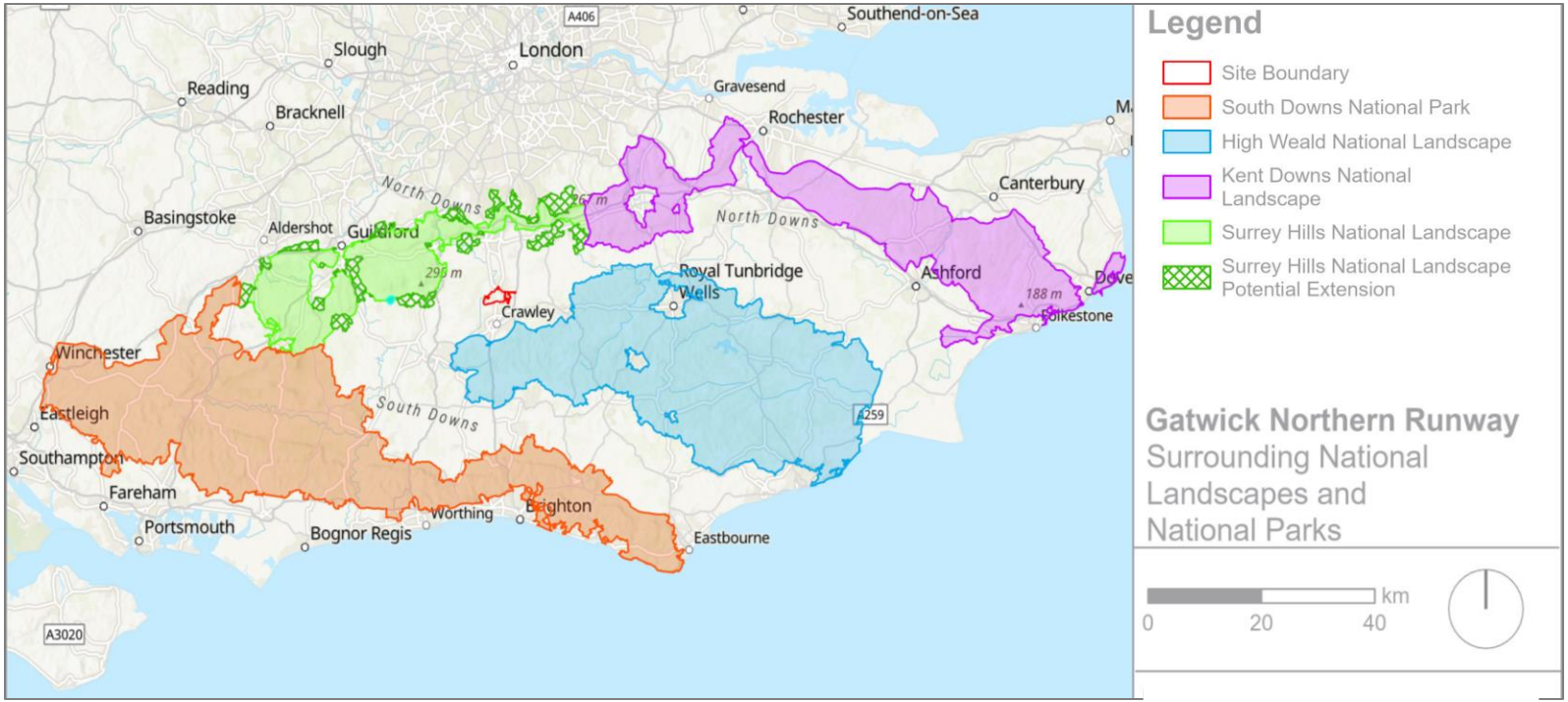
The following slides are background materials to inform a discussion between Gatwick Airport Limited and the Protected/National Landscapes regarding the amended duty under Section 85 of CRoW 2000

April 2025

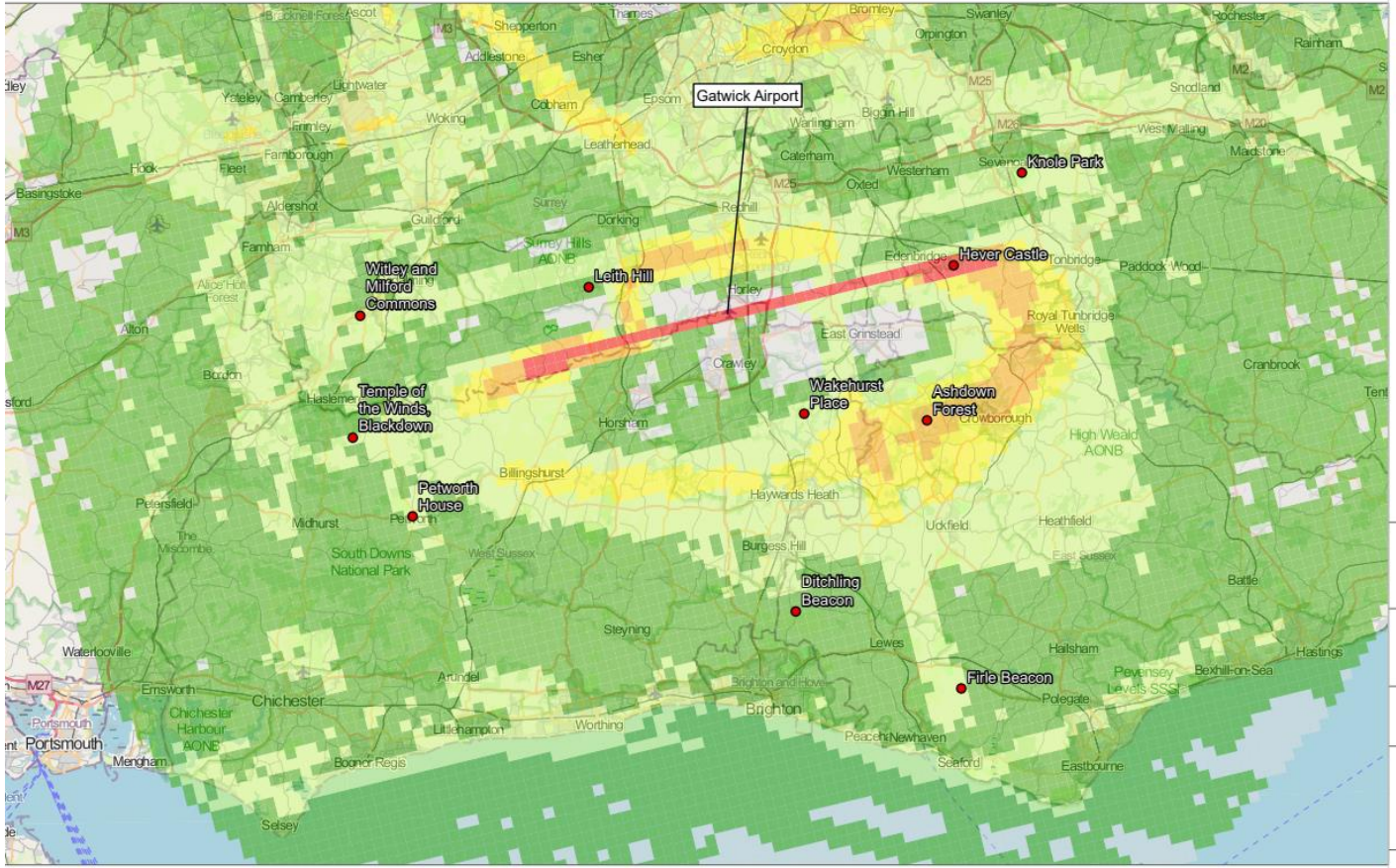
LONDON GATWICK

POWERED BY VINCI AIRPORTS | GLOBAL INFRASTRUCTURE PARTNERS

Location of National Landscapes and National Parks – Gatwick is well situated to limit impacts



2019 Baseline Overflights



LONDON GATWICK

KEY

- Landscape Assessment Location
- < 1 Overflight
- 1 - 10 Overflights
- 11 - 50 Overflights
- 51 - 100 Overflights
- 101 - 200 Overflights
- > 200 Overflights

DOCUMENT: Environmental Statement

DRAWING TITLE: 2019 Baseline All Overflights

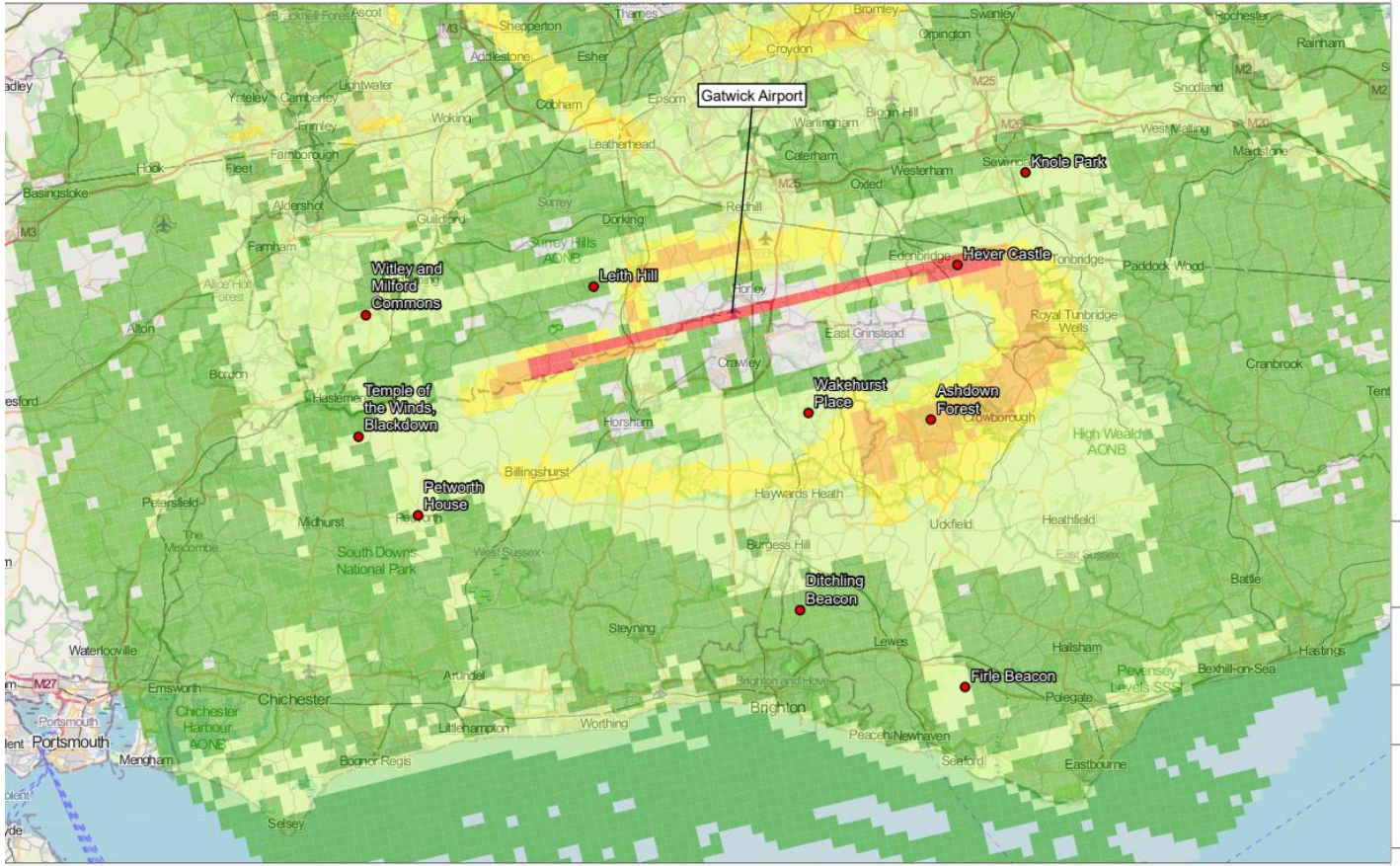
DATE: July 2023

ORIENTATION	DRAWING NO.	REVISION
N	14.6.9	For ES Issue
	DRAWN BY: WB	PM / CHECKED BY: SM

SCALE @ A3 1:175,000

0 2,500 5,000 10,000 15,000 20,000 m

2032 NRP Overflights



KEY

- Landscape Assessment Location
- < 1 Overflight
- 1 - 10 Overflights
- 11 - 50 Overflights
- 51 - 100 Overflights
- 101 - 200 Overflights
- 201 - 500 Overflights

DOCUMENT: Environmental Statement

DRAWING TITLE: 2032 Baseline All Overflights

DATE: July 2023

ORIENTATION	DRAWING NO.	REVISION
N	14.6.18	For ES Issue
	DRAWN BY: WB	PM / CHECKED BY: SM

SCALE @ A3 1:175,000

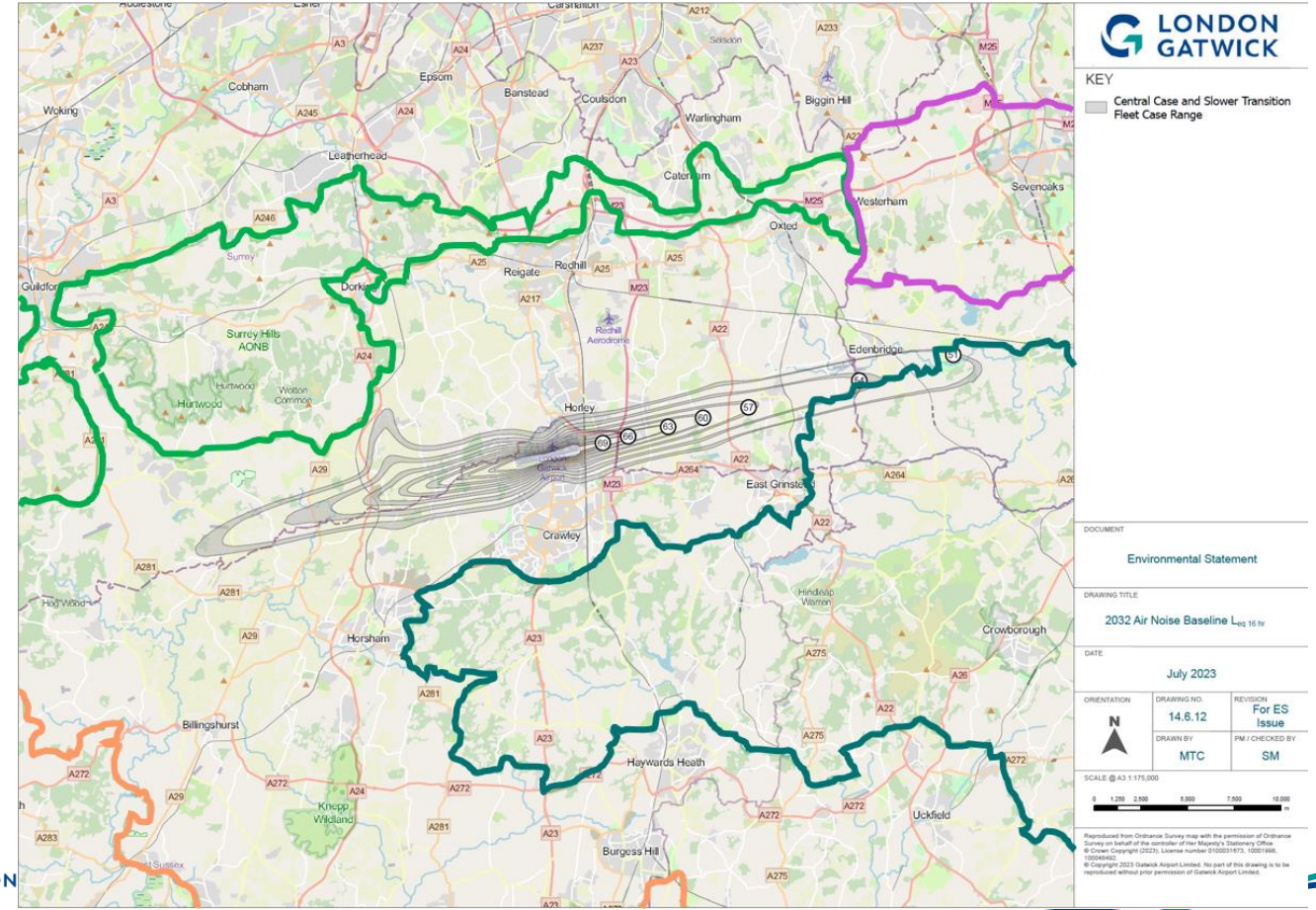
0 2,500 5,000 10,000 15,000 20,000 m

Increase in Daily Overflights at Assessment Locations as set out in Table 8.9.1 of the LVIA

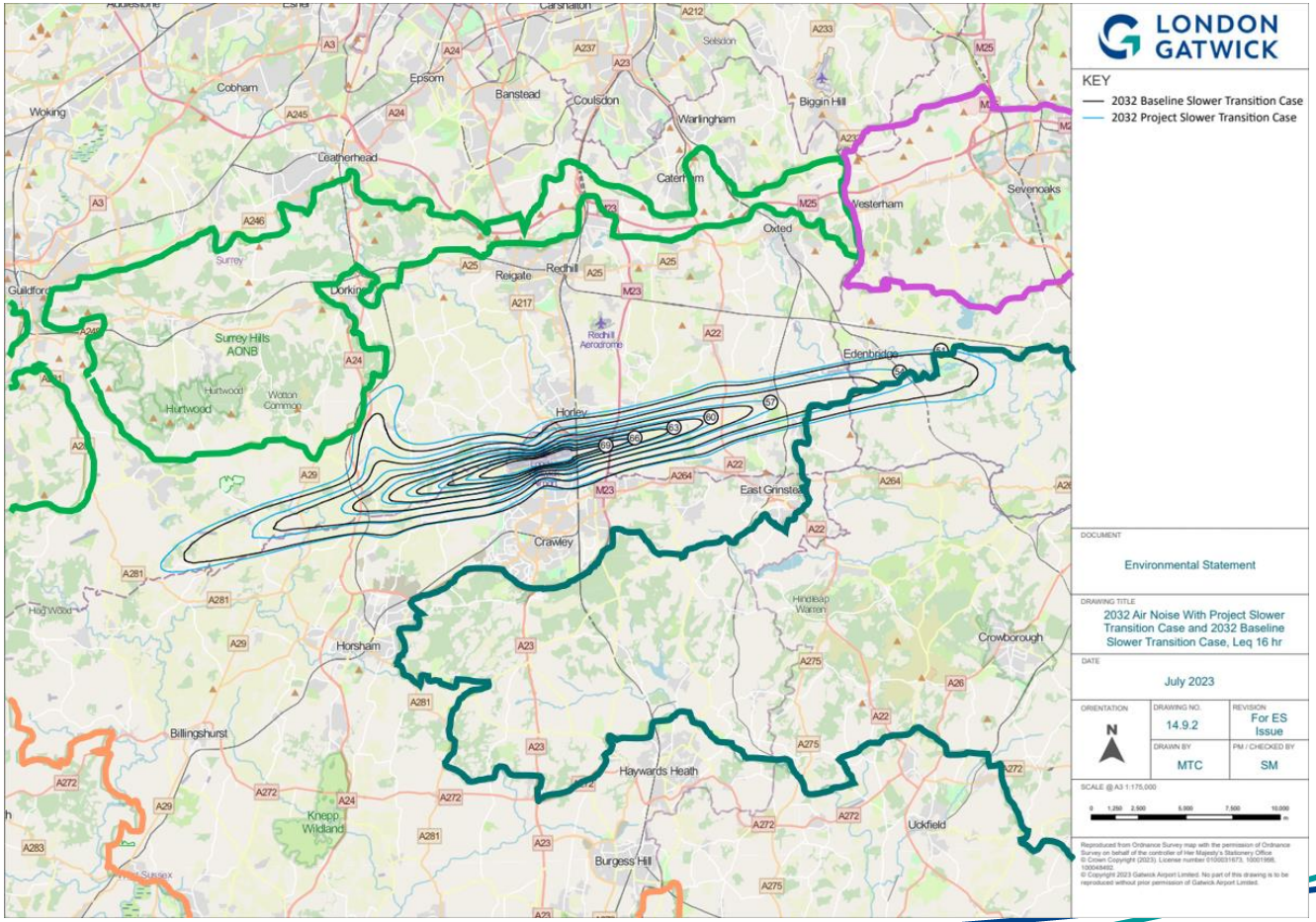
Assessment Location	Designation	2019 Baseline Gatwick Daily Overflights	2019 Baseline Non-Gatwick Daily Overflights	2019 Baseline Combined Non-Gatwick and Gatwick Daily Overflights	2032 Baseline Combined Overflights	Combined Overflights with Project (up to 20% increase in overflights by 2032)	% Increase with Project	Increase in Gatwick daily overflights
Hever Castle	**High Weald AONB**	**308**	**1**	**309**	**325.1**	**389.9**	**20%**	**64.8**
Ashdown Forest	High Weald AONB	113	0	113	119.3	143.2	20%	23.9
Wakehurst Place	High Weald AONB	21	0	21	28.2	33.8	20%	5.6
Leith Hill	Surrey Hills AONB	3	0	3	3.0	3.6	20%	0.6
Witley and Milford Commons	**Surrey Hills AONB**	**6**	**7**	**13**	**13.0**	**14.2**	**9%**	**1.2**
Petworth House	South Downs National Park	3	8	11	11.2	11.8	6%	0.6
Temple of the Winds, Blackdown	South Downs National Park	4	6	10	10.0	10.8	8%	0.8
Ditchling Beacon	South Downs National Park	1	1	2	2.1	2.3	10%	0.2
Firle Beacon	**South Downs National Park**	**9**	**2**	**11**	**11.0**	**12.8**	**16%**	**1.8**
Knole Park	**Kent Downs AONB**	**9**	**5**	**14**	**13.6**	**15.4**	**13%**	**1.8**

Bold emphasis added to indicate the greatest increase in Gatwick daily overflights for each designation.

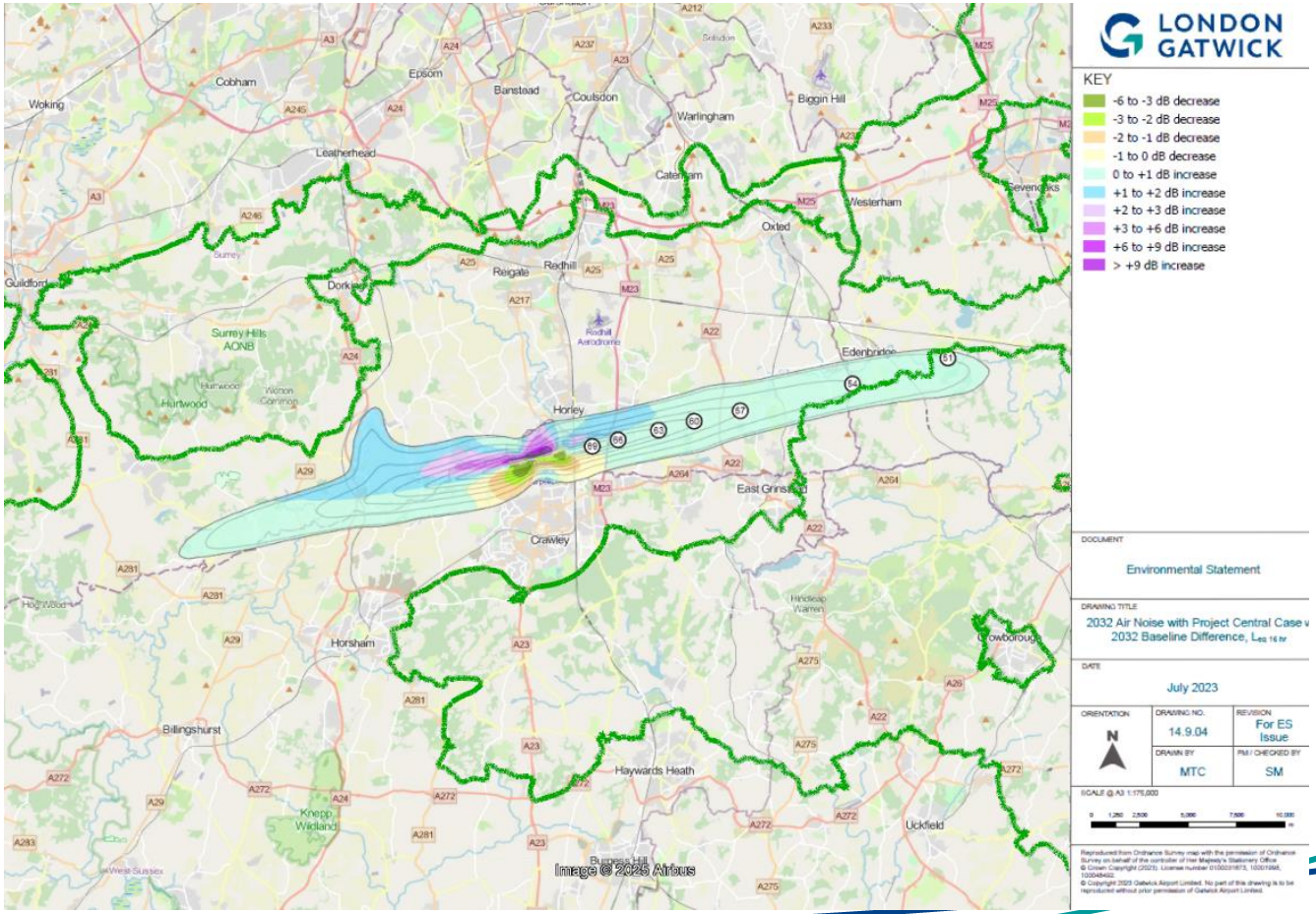
2032 Air Noise Baseline Leq 16hr



2032 Air Noise with NRP Leq 16hr



2032 Air Noise vs 2032 Baseline Leq 16hr



APPENDIX 2 TO ANNEX 4
LETTER FROM THAMES WATER UTILITIES LIMITED
DATED 17 APRIL 2025

FAO: Mr Jonathan Deegan
Gatwick Airport Limited

Destinations Place,
Gatwick Airport,
West Sussex,
RH6 0N

17th April 2025

Thames Water Utilities Ltd.

Developer Services Major Projects,
Clearwater Court,
Vastern Road,
Reading,
RG1 8DB
developer.services@thameswater.co.uk

TW Reference: X2039-2029

Response to Gatwick's Proposed Wording for Requirement 31 from 17th April 2025

Dear Mr Deegan,

Thank you for your email dated 17th April 2025 following our on-going conversations regarding Requirement 31.

We are pleased to confirm that the most recent version of the wording for Requirement 31 contained within your email has been reviewed and is acceptable to Thames Water Utilities Limited. As a result, we are happy for you to confirm this in your on-going correspondence with the Secretary of State and we will look to confirm the same during the wider consultation period with them.

For clarity, the agreed wording is the following:

"Requirement 31 (Construction Sequencing)
[…]
(3) The undertaker must prepare and provide to Thames Water Utilities Limited a development phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and ten years after the commencement of dual runway operations. The development phasing plan must include detailed forecasts of the wastewater discharge rates and expected connection points for the authorised development throughout this period and be based on hydraulic modelling undertaken by Thames Water Utilities Limited or the undertaker in consultation with Thames Water Utilities Limited and validated by Thames Water Utilities Limited in writing.

(4) If the hydraulic modelling is undertaken by the undertaker in consultation with Thames Water Utilities Limited—
(a) Thames Water Utilities Limited will provide a formal review and response within 3 calendar months of receipt of the undertaker's hydraulic modelling, which will either indicate the results are validated or the steps required to validate the results;
(b) the undertaker will comply with those steps in order to achieve validation of their hydraulic modelling for submission to Thames Water Utilities Limited within a further 3 calendar months; and
(c) Thames Water Utilities Limited will respond to the updated submission within 3 calendar months of receipt.

(5) If, when responding under sub-paragraph (4)(c), Thames Water Utilities Limited concludes that the undertaker has not complied with the steps pursuant to sub-paragraph (4)(b), this question shall be referred to an independent Chartered Engineer (to be agreed between Thames Water Utilities Limited and the undertaker or, if not agreed, to be appointed by the President of the Chartered Institute of Water and Environment Management upon the request of either party). The decision of the Chartered Engineer is binding as to whether the hydraulic modelling is validated for the purpose of sub-paragraph (3).

(6) The details in the development phasing plan provided pursuant to sub-paragraph (3) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book.

(7) Thames Water Utilities Limited must confirm in writing within twelve months of the provision of the development phasing plan pursuant to sub-paragraph (3) whether its infrastructure will be able to accommodate the additional foul water flows from the airport for the ten-year period after the commencement of dual runway operations.

(8) The commencement of Work No. 44 (wastewater treatment works) must not take place until either—
(a) Thames Water Utilities Limited confirms that its infrastructure will not be able to accommodate the additional foul water flows;
(b) Thames Water Utilities Limited has not provided any confirmation pursuant to subparagraph (7) within the time period specified therein; or
(c) Thames Water Utilities Limited has not responded pursuant to sub-paragraph (4)(a) or (4)(c) within the time period specified therein,
unless otherwise agreed in writing by Thames Water Utilities Limited.

(9) The commencement of dual runway operations must not take place until either—
(a) Work No. 44 (wastewater treatment works) has been completed, and an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 for its operation; or
(b) Thames Water Utilities Limited confirms that its infrastructure will be able to accommodate the additional foul water flows,
unless otherwise agreed in writing by Thames Water Utilities Limited."

We hope this letter has provided the required clarity regarding our position on Condition 31 of the Gatwick Northern Runway Project development consent order; however, if there are any further points that you wish to discuss, please get back in touch.

Yours sincerely,
Thames Water Utilities Limited

Thames Water Utilities Limited – Registered Office: Clearwater Court, Vastern Road, Reading RG1 8DB
Company number 02366661. VAT registration no GB 537-4569-15

APPENDIX 3 TO ANNEX 4
CONSOLIDATED SCHEDULE 2 (REQUIREMENTS) WITH APPLICANT'S PROPOSED DRAFTING

SCHEDULE 1

Article 3

Requirements

Interpretation

1.—(1) In this Schedule—

Each of—

"appendix 1 of the design and access statement";

"carbon action plan";

"construction dust management strategy";

"construction resources and waste management plan";

"flood resilience statement";

"forecast data book";

"odour monitoring and management plan";

"operational waste management strategy";

"outline construction traffic management plan";

"outline construction workforce travel plan";

"public rights of way management strategy";

"soil management strategy";

"surface access commitments";

"surface access drainage strategy";

"water treatment works footpath plan";

"written scheme of investigation for Surrey"; and

"written scheme of investigation for West Sussex",

means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.);

"aircraft movements" means commercial or non-commercial aircraft take-offs and landings, but shall not include diverted or emergency flights;

"airport passengers" means passengers travelling to or from the airport in connection with aircraft movements;

"begin" has the meaning given in section 155 (when development begins) of the 2008 Act and shall have a meaning distinct to "commence" in this Order;

"CAA" means the Civil Aviation Authority or any successor organisation to their statutory functions;

"commencement of dual runway operations" means the first day on which aircraft movements are scheduled to depart from both the repositioned northern runway and the main runway, which for the avoidance of doubt shall exclude any days on which both runways are used by the undertaker to test dual operations following approval by the CAA for dual operations;

"commercial air transport movements" means take-offs and landings of aircraft engaged on the transport of passengers, freight or mail on commercial terms, which for the avoidance of doubt shall not include diverted or emergency flights;

"emergency flights" means aircraft movements which do not carry commercial passengers, which include but are not restricted to—

(a) flights operated by government or relief organisations for humanitarian reasons;

(b) flights operated by the armed forces for military purposes;

(c) medical flights; or

(d) a particular occasion or series of occasions which are to be disregarded pursuant to a notice published by the Secretary of State under section 78(4) or 78(5)(f) (regulation of noise and vibration from aircraft) of the 1982 Act or set out in guidance published by the Secretary of State in connection with those provisions;

"host authorities" means CBC, MVDC, RBBC, Surrey County Council, TDC and West Sussex County Council;

"independent air noise reviewer" means the CAA (or such other competent body with knowledge and expertise to perform that function as appointed by the Secretary of State from time to time);

"LAeq 8 h" means the equivalent sound level of aircraft noise in dBA for the 8 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 2300 and 0700 local time during the 92-day period 16 June to 15 September inclusive;

"LAeq 16 h" means the equivalent sound level of aircraft noise in dBA for the 16 hour annual day. For conventional historical contours for a particular year this is based on the daily average movements that take place between 0700 and 2300 local time during the 92-day period 16 June to 15 September inclusive;

"lead local flood authority" has the same meaning as in section 6(7) (other definitions) of the Flood and Water Management Act 2010;

"listed works" means the works listed in Schedule 12 (non-highway works for which detailed design approval is required); and

"noise model verification report" means a report detailing the review undertaken by an independent expert with credentials to carry out that review approved by the Institute of Acoustics to verify noise monitoring data in the noise model, including the siting of the noise and track keeping terminals and processing of data, which shall make recommendations to improve the validity of the noise modelling in future years where identified to be necessary.

(2) References in this Schedule to part of the authorised development are to be construed as references to elements of the authorised development in respect of which an application is made by the undertaker under this Schedule, and references to commencement of part of the authorised development in this Schedule are to be construed accordingly.

(3) References in this Schedule to phases of the authorised development are to be construed as references to phases identified in a phasing scheme submitted under requirement 2.

(4) References in this Schedule to air noise contours mean standard mode air noise contours, being: for daytime LAeq 16 h noise contours, contours based on the long-term east/west runway modal split calculated as the last 20-year rolling average; and for night-time LAeq 8 h noise contours, contours based on the long-term east/west runway modal split calculated as the last 10-year rolling average.

(5) Where submitted details or actions can be "otherwise agreed" by a discharging authority pursuant to requirements 4, 5, 7, 8(4), 10(3), 11(3), 12(3), 13(3), 14(1), 14(2), 20, 21, 22(3), 23(2), 24, 25(3), 27(3), 28(3), 29(3), 30(3), 31, 32, 35, 37(1) and 38(3) and 39 such agreement is not to be given by the discharging authority save where it has been demonstrated to the satisfaction of the discharging authority that the departure from the previously certified or approved document, details or obligation does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

(6) If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

Phasing scheme

2.—(1) The authorised development must not commence unless, no less than four months prior to the anticipated date of commencement, a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways.

(2) The undertaker must review and make any necessary updates to the phasing scheme and submit that updated phasing scheme to the host authorities and National Highways—

(a) no later than three years from the date of commencement of the authorised development;

(b) at any time if the undertaker proposes a significant change to the contents or timing of the phases of construction in a previously submitted phasing scheme; and

(c) no later than every three years after the date of the most recent submission of a phasing scheme under this sub-paragraph (2),

provided that the undertaker is not required to submit any further phasing scheme after the later of—

(d) the fifteenth anniversary of the commencement of the authorised development;

(e) the tenth anniversary of the commencement of dual runway operations; and

(f) the fifth anniversary of the commencement of the later of Work No. 35 (South Terminal Junction improvements), Work No. 36 (North Terminal Junction improvements) or Work No. 37 (Longbridge Roundabout Junction improvements).

(3) In submitting an updated phasing scheme under sub-paragraph (2)(b), the undertaker must use reasonable endeavours to make the submission at least 3 months before the significant change in question is implemented unless otherwise agreed in writing by CBC.

(4) Where any requirement in this Schedule requires the submission to any of the host authorities or National Highways for approval of details or a document relating to the authorised development, the undertaker must use reasonable endeavours to provide in writing to the host authority in question or National Highways (as relevant) indicative timings for the submission of the relevant details or document in question at least 3 months before their submission unless otherwise agreed in writing by the host authority in question or National Highways (as relevant).

(5) Where any requirement in this Schedule requires the submission to any of the host authorities or National Highways of details or a document relating to a part of the authorised development, the undertaker must—

(a) state which phase that part falls within by reference to the most recent phasing scheme submitted under sub-paragraph (1) or (2); and

(b) where the part does not constitute the whole phase—

(i) identify which works in Schedule 1 (authorised development) constitute the part, including by reference to the works plans (where applicable); and

(ii) provide indicative timings for the submission of the relevant details or document for the remainder of works in that phase.

(6) In this requirement "phasing scheme" means a written document which—

(a) identifies, by reference to Schedule 1 (authorised development), the works that are anticipated to be constructed within successive temporal phases of construction;

(b) includes a layout plan showing the location of the works anticipated to be constructed in each phase; and

(c) includes an indicative construction programme for any phases to be delivered in the five years following the date of submission of the phasing scheme and indicative timings for the delivery of later phases;

Time limit and notifications

3.—(1) The authorised development must begin no later than the expiration of five years beginning on the start date.

(2) The undertaker must notify the host authorities—

(a) within 7 days after the date on which the authorised development begins;

(b) at least 42 days prior to the anticipated date of commencement of the authorised development, provided that commencement may still lawfully occur if notice is not served in accordance with this sub-paragraph;

(c) within 7 days after the actual date of commencement of the authorised development;

(d) at least 42 days prior to the anticipated date of commencement of dual runway operations; and

(e) within 7 days after the actual commencement of dual runway operations.

Detailed design

4.—(1) No part of the authorised development (except for the highway works and listed works) is to commence until CBC has been consulted on the design of that part.

(2) Consultation under sub-paragraph (1) shall take place by—

(a) the undertaker providing CBC with an explanatory note, drawings (where necessary) and a compliance statement regarding the design of the part in question; and

(b) CBC providing its comments (if any) within 8 weeks beginning with the day after the information was provided to CBC pursuant to sub-paragraph (2)(a), unless a longer time period is agreed in writing between CBC and the undertaker.

(3) Any part of the authorised development to which sub-paragraph (1) applies must be carried out in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.

(4) No part of any listed works is to commence until the details referred to in sub-paragraph (5) for the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by—

(a) for Work No. 40(a) (pedestrian footbridge over the River Mole), MVDC (in consultation with RBBC); and

(b) for all other listed works, CBC.

(5) The details referred to in sub-paragraph (4) must include—

(a) an explanatory note;

(b) drawings;

(c) a compliance statement;

(d) details of layout, siting, scale, external appearance and levels (including existing and finished floor levels and ground levels);

(e) a schedule of external materials and finishes;

(f) details of any associated structures;

(g) access arrangements;

(h) an operational lighting scheme for the part;

(i) details of any construction and sustainability measures; and

(j) for part of a work that is subject to design review in accordance with annex A of appendix 1 of the design and access statement, the relevant "Design Review Statement" as defined in that annex A.

(6) The relevant part of the listed works must be carried out in accordance with the details approved under sub-paragraph (4) unless otherwise agreed in writing with MVDC (in consultation with RBBC) or CBC (as relevant depending on which authority approved the details).

(7) In this requirement "compliance statement" means a document that sets out how—

(a) the part of the authorised development in question will be constructed in accordance with the design principles in appendix 1 of the design and access statement, unless otherwise agreed in writing with—

(i) for a part to which sub-paragraphs (1) or (4)(b) apply, CBC; or

(ii) for a part to which sub-paragraph (4)(a) applies, MVDC (in consultation with RBBC); and

(b) in carrying out that part the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(6).

Local highway works – detailed design

5.—(1) No part of the local highway works is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by the relevant highway authority (in consultation with the relevant planning authority).

(2) The details referred to in sub-paragraph (1) must—

(a) be in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with the relevant highway authority; and

(b) be in accordance with the surface access general arrangements, surface access engineering section drawings and surface access structure section drawings or otherwise demonstrate that in carrying out the part of the authorised development to which the submitted details relate the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(7).

(3) The relevant part of the local highway works must be carried out in accordance with the details approved by the relevant highway authority under sub-paragraph (1) unless otherwise agreed in writing with the relevant highway authority.

National highway works

6.—(1) The undertaker must carry out the national highway works in accordance with Part 3 of Schedule 9 (protective provisions for the protection of National Highways).

(2) Design details submitted to National Highways pursuant to paragraph 7(1)(c) of Part 3 of Schedule 9 to this Order must—

(a) be in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with National Highways;

(b) be in accordance with the surface access general arrangements, surface access engineering section drawings and surface access structure section drawings or otherwise demonstrate that in carrying out the part of the authorised development to which the submitted details relate the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(7); and

(c) to the extent that they constitute drainage details, be substantially in accordance with the surface access drainage strategy.

(3) The undertaker must have completed construction of the national highway works and made an application to National Highways for a provisional certificate pursuant to paragraph 10 of Part 3 of Schedule 9 in respect of the national highway works by the third anniversary of the commencement of dual runway operations, unless otherwise agreed in writing with National Highways, said agreement not to be unreasonably withheld or delayed.

Code of construction practice

7. Construction of the authorised development must be carried out in accordance with the code of construction practice unless otherwise agreed in writing with CBC.

Landscape and ecology management plan

8.—(1) No part of the authorised development is to commence until a landscape and ecology management plan for that part has been submitted to and approved in writing by CBC (in consultation with RBBC, MVDC or TDC to the extent that they are the relevant planning authority for any land to which the submitted plan relates).

(2) Where a landscape and ecology management plan submitted pursuant to sub-paragraph (1) relates to highways works, CBC must approve it also in consultation with the relevant highway authority.

(3) Each landscape and ecology management plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the outline landscape and ecology management plan and must include a timetable for the implementation of the landscaping works it contains.

(4) The relevant part of the authorised development must be carried out in accordance with the relevant landscape and ecology management plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing with CBC.

(5) In respect of any landscape and ecology management plan for Work No. 40 (works associated with land to the north east of Longbridge Roundabout), the references in this requirement to "CBC" are to be read as "MVDC".

Contaminated land and groundwater

9.—(1) In respect of any part of the authorised development where historical data cannot establish that the risk of contaminated land is low, the undertaker must conduct ground investigations prior to that part of the authorised development being commenced. The scope of these investigations must be agreed with the relevant planning authority (in consultation with the Environment Agency on matters related to its functions).

(2) In the event that land affected by contamination, including groundwater, is found at any time when constructing the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(3) Where the undertaker's risk assessment determines that remediation of contamination identified in, on, or under land from detailed site investigations, or as an unexpected discovery, is necessary, a remediation strategy comprising a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the relevant planning authority (in consultation with the Environment Agency on matters related to its functions).

(4) Any required and agreed remediation must be carried out in accordance with the remediation strategy approved under sub-paragraph (3).

(5) The remediation strategy submitted for approval pursuant to sub-paragraph (3) shall include a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

(6) Prior to the relevant part of the authorised development being occupied or used (as relevant) a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation will be submitted to, and approved in writing by, the relevant planning authority. The report will include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Surface and foul water drainage

10.—(1) No part of the authorised development involving surface or foul water drainage (except for the highway works and listed works) is to commence until CBC has been consulted on the drainage for that part.

(2) Consultation under sub-paragraph (1) shall take place by—

(a) the undertaker providing CBC with an explanatory note, drawings (where necessary) and a compliance statement regarding the drainage of the part in question; and

(b) CBC providing its comments (if any) within 8 weeks beginning with the day after the information was provided to CBC pursuant to sub-paragraph (2)(a), unless a longer time period is agreed in writing between CBC and the undertaker.

(3) Any part of the authorised development to which sub-paragraph (1) applies must be carried out in accordance with the drainage design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.

(4) No part of any listed works involving surface or foul water drainage is to commence until details of the surface and foul water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).

(5) The drainage details referred to in sub-paragraph (4) must include those of the following that are reasonably considered necessary for the part of the listed work in question by CBC—

(a) an explanatory note;

(b) drawings;

(c) a compliance statement;

(d) details of layout, siting, scale, external appearance and levels;

(e) details of any associated structures;

(f) details of any construction and sustainability measures; and

(g) for part of a work that is subject to design review in accordance with annex A of appendix 1 of the design and access statement, the relevant "Design Review Statement" as defined in that annex A.

(6) The relevant part of the listed works must be constructed in accordance with the details approved under sub-paragraph (4) unless otherwise agreed in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).

(7) In this requirement "compliance statement" means a document that sets out how the part of the authorised development in question will be constructed in accordance with the drainage design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC.

Local highway surface water drainage

11.—(1) No part of the local highway works is to commence until written details of the surface water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by the relevant highway authority (in consultation with the Environment Agency, the relevant lead local flood authority and the relevant planning authority).

(2) The drainage details approved pursuant to sub-paragraph (1) must be substantially in accordance with the surface access drainage strategy.

(3) The relevant part of the local highway works must be constructed in accordance with the details approved under sub-paragraph (1) unless otherwise agreed in writing by the relevant highway authority (in consultation with the Environment Agency and the relevant lead local flood authority).

Construction traffic management plan

12.—(1) No part of the authorised development is to commence until a construction traffic management plan for that part has been submitted to and approved in writing by CBC (in consultation with West Sussex County Council, Surrey County Council and National Highways on matters related to their function).

(2) The construction traffic management plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction traffic management plan.

(3) The relevant part of the authorised development must be constructed in accordance with the construction traffic management plan referred to in sub-paragraph (1), unless otherwise agreed in writing with CBC (in consultation with West Sussex County Council, Surrey County Council and National Highways on matters related to their function).

Construction workforce travel plan

13.—(1) No part of the authorised development is to commence until a construction workforce travel plan for that part has been submitted to and approved in writing by CBC (in consultation with West Sussex County Council, Surrey County Council and National Highways on matters related to their function).

(2) The construction workforce travel plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction workforce travel plan.

(3) The relevant part of the authorised development must be constructed in accordance with the construction workforce travel plan referred to in sub-paragraph (1), unless otherwise agreed in writing with CBC (in consultation with West Sussex County Council, Surrey County Council and National Highways on matters related to their function).

Archaeological remains

14.—(1) Work No. 34(b) (Car Park B North) must be carried out in accordance with the written scheme of investigation for Surrey unless otherwise agreed in writing by Surrey County Council.

(2) Any part of the authorised development in West Sussex must be carried out in accordance with the written scheme of investigation for West Sussex unless otherwise agreed in writing with CBC.

(3) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported to the relevant authority and Historic England as soon as reasonably practicable from the date they are identified.

(4) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (3) for a period of 14 days from the date of any report under sub-paragraph (3).

(5) If the relevant authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted to, and approved in writing by, the relevant authority in consultation with Historic England.

(6) Construction operations which would otherwise be prohibited by sub-paragraphs (4) or (5) shall be permitted to the extent that they are—

(a) agreed in writing by the relevant authority in consultation with Historic England; or

(b) necessary to address a potential risk identified by the undertaker to the safety of the authorised development or any of its parts, the public or the surrounding environment (in which case the undertaker must promptly notify the relevant authority and Historic England in writing of the operations which it has carried out).

(7) In this requirement, the "relevant authority" means—

(a) in respect of any land in West Sussex, CBC; and

(b) in respect of any land in Surrey, Surrey County Council.

Air noise limits

15.—(1) The undertaker shall not operate the airport for dual runway operations unless the air noise contour enclosed areas set out in Table 1 are complied with.

Table 1

Air noise contour	Enclosed area from the first to fifth year of dual runway operations	Enclosed area from the sixth year of dual runway operations
51 dB LAeq 16 h	135 km^2	125 km^2
45 dB LAeq 8 h	146 km^2	135 km^2

(2) Air noise contour reports shall be published annually by the operator to demonstrate compliance with this requirement, as soon as is reasonably practicable following the first year and subsequent years of dual runway operations. The air noise contour enclosed areas set out in Table 1 shall be calculated using the Civil Aviation Authority's Environmental Research and Consultancy Department (ERCD) Aircraft Noise Contour model, version 2.4 or later.

(3) The undertaker may submit a detailed written request to the Secretary of State to amend the air noise contour enclosed areas in Table 1 of this requirement in relation to any extraordinary review circumstances and, where approved by the Secretary of State, the air noise contour enclosed areas in Table 1 shall be read as amended in accordance with the decision of the Secretary of State.

(4) A request to the Secretary of State under sub-paragraph (3) shall be made in accordance with the following process—

(a) The undertaker shall submit its detailed written request to the Secretary of State and the Secretary of State shall provide the undertaker with an email address and postal address to which comments may be provided by interested parties on the request and specify a time period (that shall commence on the undertaker's notification under sub-paragraph (b)) within which such comments may be provided.

(b) The undertaker shall notify the persons listed in section 42(1) (duty to consult) of the 2008 Act and shall state that comments may be provided to the email address or postal address provided by the Secretary of State within the time period specified by the Secretary of State.

(c) After the conclusion of the time period for comments, the Secretary of State shall make any such further arrangements as are necessary and proportionate for it to make a decision and shall then decide whether to accept or refuse the request. This decision shall be published on a publicly accessible website and notified to the undertaker.

(d) The Secretary of State may agree in writing with the undertaker any amendment to the process set out in this sub-paragraph (4).

(5) Where the airport is operated for dual runway operations in excess of the air noise contour enclosed areas in Table 1, it is not a breach of the terms of this Order for the purposes of Part 8 of the 2008 Act if the exceedance is due to action taken in emergency circumstances in which there was reasonably cause for apprehending injury to persons or serious damage to property.

(6) In this requirement, "extraordinary review circumstances" means circumstances outside the control of the undertaker which affect the noise environment at or around the airport, including but not limited to implementation of an airspace change.

16.—Not used.

Verification of air noise monitoring equipment

17. Within not more than six months following the end of the period of 12 months beginning with the commencement of dual runway operations and at 5 yearly intervals thereafter the undertaker must submit to the independent air noise reviewer a noise model verification report and the undertaker must publish on a website (including a page on a website) hosted by the undertaker for that purpose each noise model verification report submitted to the independent air noise reviewer within not more than 14 days after the date of its submission.

Receptor-based noise mitigation

18.—(1) Within not more than 3 months following the commencement of any of Work Nos. 1 (repositioning existing northern runway), 2 (runway access track) or 18 (replacement western noise mitigation bund) the undertaker shall submit for approval by the relevant local planning authority—

(a) a list of premises forecast to be potentially eligible premises at or after the commencement of dual runway operations (using the most recent available forecast at that time); and

(b) details of how the provision of a package of receptor-based noise mitigation measures is to be promoted to those potentially eligible premises and how an owner (or occupier with the owner's prior written consent) of such premises may apply for such a package.

(2) Within not more than 3 months following the approval of the list and details in sub-paragraph (1) the undertaker must take the steps approved under sub-paragraph (1)(b) to notify the owners and occupiers of all eligible premises that the premises are eligible for the design and installation of a package of receptor-based mitigation measures.

(3) The undertaker shall submit for approval by the relevant local planning authority details of the specific receptor-based mitigation measures for each eligible non-residential premises. The details submitted to the relevant planning authority must—

(a) be reasonably expected to achieve the standards set out in section (c) of the noise insulation scheme document; and

(b) be comprised of measures selected from the list set out in section (d) of the noise insulation scheme document.

(4) The maximum sums of money to be provided by the undertaker towards the package of receptor-based mitigation measures for eligible residential premises are as follows (plus VAT)—

(a) inner zone – no limit;

(b) outer zone 1 – £6,500; and

(c) outer zone 2 – £4,500.

(5) The maximum sum of money to be provided by the undertaker towards the package of receptor-based mitigation measures for eligible non-residential premises is £250,000 (plus VAT) per applicant, per building or group of buildings in the same occupation and location.

(6) Within not more than—

(a) 12 months (for eligible premises within the inner zone); or

(b) 24 months (for eligible premises within outer zone 1 or outer zone 2),

of receipt of a valid application for receptor-based mitigation measures from an owner (or occupier with the owner's prior written consent) of eligible premises, the undertaker must, subject to access being granted to the premises, carry out a survey of those premises and submit for the agreement of the owner a specific package of receptor-based mitigation measures proposed to be installed at those premises.

(7) The specific package submitted under sub-paragraph (6) must be—

(a) for eligible residential premises, reasonably expected to achieve the standard set out in section (a) of the noise insulation scheme document and comprised of measures selected from the list set out in section (b) of the noise insulation scheme document; or

(b) for eligible non-residential premises, in accordance with the specific package approved pursuant to sub-paragraph (3).

(8) The undertaker shall not be obliged by anything in this requirement to install any receptor-based mitigation measures that are declined by an owner of eligible premises.

(9) Where any eligible premises is a listed building the undertaker shall submit (at the cost of the undertaker) the necessary application for the required consents following any requirements of the local conservation officer and Historic England's guidance Energy Efficiency and Historic Buildings, Secondary Glazing for Windows, 2016 (or successor guidance).

(10) If—

(a) a relevant local planning authority refuses to approve the list of premises or promotion details pursuant to sub-paragraph (1) or fails to communicate a decision within 6 weeks of the submission of the list and/or details by the undertaker;

(b) a relevant local planning authority refuses to approve details of the specific receptor-based mitigation measures pursuant to sub-paragraph (3) or fails to communicate a decision within 6 weeks of the submission of the details by the undertaker; or

(c) an owner rejects the specific package of receptor-based mitigation measures proposed by the undertaker pursuant to sub-paragraph (6) on the basis that they consider that the package does not comply with sub-paragraph (7),

the undertaker, the relevant local planning authority or the owner (as relevant) may refer the matter to the noise insulation scheme independent panel.

(11) Upon a referral pursuant to sub-paragraph (10), the noise insulation scheme independent panel may—

(a) make a decision to approve details in place of the relevant local authority pursuant to sub-paragraph (1) or (3); or

(b) confirm that the package of measures proposed to an owner pursuant to sub-paragraph (6) complies with sub-paragraph (7) or otherwise specify a revised package of measures that complies with sub-paragraph (7) that the undertaker shall be required to submit to the owner.

(12) Subject to—

(a) a relevant owner or occupier having made a valid application to the undertaker not less than two years from the date on which they were notified of their eligibility for receptor-based noise mitigation measures under sub-paragraph (2); and

(b) agreement by the owner or occupier of the eligible premises to the specific package of measures pursuant to sub-paragraph (6); and

(c) if the eligible premises is a listed building, the grant of the necessary consents not less than 12 months prior to the relevant event,

the agreed package of receptor-based mitigation measures shall be installed and commissioned before the later of the commencement of dual runway operations or the year in which the premises is forecast to be within the relevant contour that rendered it a potentially eligible premises (using the most recent available forecast at that time).

(13) Subsequent to the commencement of dual runway operations the undertaker and the relevant local planning authority shall carry out modelling to identify additional potentially eligible premises or adjustments to the specification of the measures provided, in the manner set out in section (e) and section (f) of the noise insulation scheme document. With regard to any such premises the undertaker shall offer, design, install and commission a package of receptor-based mitigation measures that accords with the other provisions of this requirement as soon as reasonably practicable.

(14) The undertaker must notify each owner or occupier of an eligible residential premises which is within the LAeq 16 h 66 dB air noise contour (as modelled based on actual operations of the previous summer following the commencement of dual runway operations) of their eligibility to receive a payment covering reasonable moving costs, estate agent fees up to 1% of the sale price and stamp duty (up to a

maximum combined total of £40,000) where requested by the owner, subject always to such entitlement being strictly limited to one claim per eligible residential premises.

(15) Any dispute as to the costs offered or sought under sub-paragraph (14) may be referred by the undertaker or the relevant homeowner to the noise insulation scheme independent panel, which can decide whether the amount offered or sought is compliant with that sub-paragraph.

(16) In this requirement—

(a) "ambient noise" means the ambient noise levels assessed in the manner set out in section (f) of the noise insulation scheme document;

(b) "eligible premises" means premises approved in writing by the relevant local planning authority pursuant to sub-paragraph (1) after its consideration of potentially eligible premises provided by the undertaker (and "eligible residential premises" and "eligible non-residential premises" shall mean the same as regards "potentially eligible residential premises" and "potentially eligible non-residential premises" respectively);

(c) "inner zone" means the area which is predicted to be within the LAeq 8 h 55 dB contour or the LAeq 16 h 60 dB contour following the commencement of dual runway operations;

(d) "noise insulation scheme independent panel" means the panel of experts that shall be established by the undertaker prior to the commencement of any of Work Nos. 1 (repositioning existing northern runway), 2 (runway access track) or 18 (replacement western noise mitigation bund), the composition, appointment and operation of which are described in section (g) of the noise insulation scheme document;

(e) "noise insulation scheme document" means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.);

(f) "outer zone 1" means the area which is predicted to be within the LAeq 16 h 57 dB to 60 dB contour following the commencement of dual runway operations;

(g) "outer zone 2" means the area which is predicted to be within the LAeq 16 h 54 dB to 57 dB contour or within the LAeq 8 h 48 dB to LAeq 16 h 54 dB contour following the commencement of dual runway operations;

(h) "potentially eligible premises" means potentially eligible non-residential premises and potentially eligible residential premises;

(i) "potentially eligible non-residential premises" means:

(i) a school or college where, following the commencement of dual runway operations, (a) air noise or (b) ground noise alone or in combination with air noise which is above ambient noise, is predicted to exceed LAeq 16 h 51 dB; or

(ii) a hospital, library, place of worship or noise sensitive community building where, following the commencement of dual runway operations, (a) air noise or (b) ground noise alone or in combination with air noise which is above ambient noise, is predicted to exceed LAeq 16 h 63 dB.

(j) "potentially eligible residential premises" means a main residence where, following the commencement of dual runway operations, (a) air noise or (b) ground noise alone or in combination with air noise which is above ambient noise, is predicted to exceed LAeq 16 h 54 dB or LAeq 8 h 48 dB; and

(k) all monetary amounts shall be subject to indexation annually in accordance with the Consumer Price Index (or in the event this is no longer being updated, a suitable alternative index) from the date on which this Order is made.

Airport operations

19.—(1) From the date of the commencement of dual runway operations, the airport may not be used for more than 389,000 aircraft movements per annum or a passenger throughput of 80.2 million passengers per annum.

(2) The repositioned northern runway must not be used between the hours of 23:00 – 06:00 but may be used between these hours where the main runway is temporarily non-operational by reason of an accident, incident or structural defect or when maintenance to the main runway is being undertaken.

(3) Subject to sub-paragraph (4), the repositioned northern runway must not be used—

(a) for aircraft landings; or

(b) for departures of aircraft larger than Code C aircraft.

(4) Sub-paragraph (3) does not apply and the repositioned northern runway may be used in one or both of the ways stated in that sub-paragraph where the main runway is temporarily non-operational by reason of an accident, incident or structural defect or when maintenance to the main runway is being undertaken.

(5) In this requirement—

(a) "Code C aircraft" means aircraft with dimensions meeting the maximum specifications of code letter C in the Aerodrome Reference Code table in Annex 14, Volume I to the Convention on International Civil Aviation, as at the date of this Order; and

(b) "passenger throughput" means the number of passengers that use the airport as part of aircraft movements but excluding persons under the age of two years.

Surface access

20.—From the date on which the authorised development begins the undertaker must comply with, and the operation of the airport must be carried out in accordance with, the surface access commitments unless otherwise agreed in writing with—

(a) Network Rail Infrastructure Limited in respect of commitments 14A and 14B; or

(b) CBC and National Highways (in consultation with Surrey County Council and West Sussex County Council) in respect of any other commitment or matter.

[*Applicant's alternative drafting*:

Surface access

20.—(1) From the date on which the authorised development begins the undertaker must comply with, and the operation of the airport must be carried out in accordance with, the surface access commitments unless otherwise agreed in writing with—

(a) Network Rail Infrastructure Limited in respect of commitments 14A and 14B; or

(b) CBC and National Highways (in consultation with Surrey County Council and West Sussex County Council) in respect of any other commitment or matter.

(2) Subject to sub-paragraphs (3) and (4), the commencement of dual runway operations and/or first use of Work No. 6(a) (Pier 7) must not take place unless and until the annual monitoring report for the year immediately prior demonstrates that at least 54% of airport passengers' journeys to and from the airport were by public transport, unless otherwise agreed by CBC.

(3) Commencement of dual runway operations and/or first use of Work No. 6(a) (Pier 7) may take place notwithstanding sub-paragraph (2) if the annual monitoring report for the year immediately prior shows that in the monitored year there were fewer than 24 million airport passenger vehicle trips travelling to and from the airport.

(4) Commencement of dual runway operations and/or first use of Work No. 6(a) (Pier 7) may take place notwithstanding sub-paragraph (2) once the undertaker has completed construction of the national highway works and made an application to National Highways for a provisional certificate pursuant to paragraph 10 of Part 3 of Schedule 9 in respect of those works.

(5) First use of Work Nos. 28(a) (hotel on Car Park H site), 28(b) (office on Car Park H site) and 30(b) (Car Park Y) must not take place until the undertaker has completed construction of the national highway

works and made an application to National Highways for a provisional certificate pursuant to paragraph 10 of Part 3 of Schedule 9 in respect of those works.

(6) In this requirement—

(a) "annual monitoring report" has the same meaning as defined in the surface access commitments; and

(b) "vehicle trips" means journeys using car-based modes (car, taxi and car rental) and includes passengers using drop off/pick up zones, on-airport car parks and off-airport car parks that are subject to annual counts to determine the number of trips.]

Carbon action plan

21. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the carbon action plan unless otherwise agreed in writing with the Secretary of State (following consultation with CBC).

Public rights of way

22.—(1) No development of any new or diverted public right of way listed in Part 3 of Schedule 4 (footways and cycle tracks) may be carried out until a public rights of way implementation plan for that public right of way has been submitted to and approved by the relevant highway authority.

(2) Each public rights of way implementation plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the public rights of way management strategy and in accordance with the rights of way and access plans.

(3) The development of any new or diverted public right of way listed in Part 3 of Schedule 4 must be carried out in accordance with the relevant public rights of way implementation plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing with the relevant highway authority.

Flood compensation delivery plan

23.—(1) Prior to the commencement of the first of the floodplain works requiring prior mitigation, a flood compensation delivery plan setting out the timeframe for delivering the fluvial mitigation works must be submitted to and approved in writing by CBC (in consultation with West Sussex County Council as lead local flood authority and the Environment Agency).

(2) The authorised development must be constructed in accordance with the flood compensation delivery plan referred to in sub-paragraph (1) unless otherwise agreed in writing with CBC (in consultation with West Sussex County Council as lead local flood authority and the Environment Agency).

(3) In this requirement—

(a) "floodplain works requiring prior mitigation" means Work Nos. 3, 4(f), 4(g), 4(h), 4(i), 4(j)(ii), 15, 20, 23(b), 23(c), 23(d), 29, 32, 34(a), 34(c), 36(c), 36(e), 36(f), 36(p), 36(q), 36(w), 36(x), 36(y), 37(a), 37(b), 37(f), 37(g), 37(h), 37(i), 37(j), 37(l), 37(m) and 37(n); and

(b) "fluvial mitigation works" means Work Nos. 31(b), 31(c), 38(a), 39(a), 39(b), 39(c) and 39(e).

Flood resilience statement

24. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the flood resilience statement unless otherwise agreed in writing with CBC.

Operational waste management plan

25.—(1) Work No. 9 (replacement CARE facility) must not be commenced until an operational waste management plan has been submitted to and approved in writing by West Sussex County Council.

(2) The operational waste management plan submitted under sub-paragraph (1) must be substantially in accordance with the operational waste management strategy.

(3) The airport must be operated in accordance with the operational waste management plan approved by West Sussex County Council unless otherwise agreed in writing with West Sussex County Council.

Water treatment works footpath

26.—(1) Prior to the commencement of Work No. 43 (water treatment works) a public access by foot must be provided between the accesses marked "A" and "B" on the water treatment works footpath plan.

(2) Once provided, the public access by foot described in sub-paragraph (1) must not be removed until construction of Work No. 43 (water treatment works) is complete.

Construction dust management plan

27.—(1) No construction activities that may generate dust may be carried out until a construction dust management plan for those activities has been submitted to and approved by CBC.

(2) Each construction dust management plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the construction dust management strategy.

(3) Construction activities that may generate dust must be carried out in accordance with the relevant construction dust management plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by CBC.

Arboricultural and vegetation method statement

28.—(1) No vegetation or tree clearance may be carried out until an arboricultural and vegetation method statement for the area within which such works are to be carried out has been submitted to and approved by CBC (in consultation with MVDC, RBBC and TDC to the extent that they are the relevant planning authority for any land to which the statement relates).

(2) Each arboricultural and vegetation method statement submitted pursuant to sub-paragraph (1) must be substantially in accordance with the outline arboricultural and vegetation method statement.

(3) Vegetation or tree clearance must be carried out in accordance with the relevant arboricultural and vegetation method statement approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by CBC (in consultation with MVDC, RBBC and TDC to the extent that they are the relevant planning authority for any land to which the statement relates).

Soil management plan

29.—(1) No soil removal may be carried out until a soil management plan for that soil has been submitted to and approved by CBC.

(2) Each soil management plan submitted pursuant to sub-paragraph (1) must be substantially in accordance with the soil management strategy.

(3) Removed soil must be managed in accordance with the relevant soil management plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by CBC.

Site waste management plan

30.—(1) No part of the authorised development is to commence until a site waste management plan for that part has been submitted to and approved in writing by the relevant authority.

(2) The site waste management plan submitted pursuant to sub-paragraph (1) must include the form of sections A1, A2, A3 and A4 of Annex A to the construction resources and waste management plan.

(3) Construction waste arising from that part of the authorised development must be managed in accordance with the measures set out in the form of section A1 of the site waste management plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing by the relevant authority.

(4) A form of section A5 of Annex A to the construction resources and waste management plan must be maintained throughout the duration of the construction of that part of the authorised development and must be made available to the relevant authority upon request.

(5) In this requirement, the "relevant authority" means, in respect of a part of the authorised development—

(a) in West Sussex, West Sussex County Council;

(b) in Surrey, Surrey County Council; and

(c) partly in each of West Sussex and Surrey, West Sussex County Council (in consultation with Surrey County Council).

Construction sequencing

31.—(1) The commencement of dual runway operations must not take place until Work No. 43 (water treatment works) has been completed.

(2) Work No. 39(b) (River Mole culverts and syphons) must not be commenced until Work No. 42(b) (weir and fish pass) has been completed.

(3) The undertaker must prepare and provide to Thames Water Utilities Limited a development phasing plan which will include forecast passenger growth numbers for the period up to the commencement of dual runway operations and ten years after the commencement of dual runway operations. The development phasing plan must include detailed forecasts of the wastewater discharge rates and expected connection points for the authorised development throughout this period and be based on hydraulic modelling undertaken by Thames Water Utilities Limited or the undertaker in consultation with Thames Water Utilities Limited and validated by Thames Water Utilities Limited in writing.

(4) If the hydraulic modelling is undertaken by the undertaker in consultation with Thames Water Utilities Limited—

(a) Thames Water Utilities Limited will provide a formal review and response within 3 calendar months of receipt of the undertaker's hydraulic modelling, which will either indicate the results are validated or the steps required to validate the results;

(b) the undertaker will comply with those steps in order to achieve validation of their hydraulic modelling for submission to Thames Water Utilities Limited within a further 3 calendar months; and

(c) Thames Water Utilities Limited will respond to the updated submission within 3 calendar months of receipt.

(5) If, when responding under sub-paragraph (4)(c), Thames Water Utilities Limited concludes that the undertaker has not complied with the steps pursuant to sub-paragraph (4)(b), this question shall be referred to an independent Chartered Engineer (to be agreed between Thames Water Utilities Limited and the undertaker or, if not agreed, to be appointed by the President of the Chartered Institute of Water and Environment Management upon the request of either party). The decision of the Chartered Engineer is binding as to whether the hydraulic modelling is validated for the purpose of sub-paragraph (3).

(6) The details in the development phasing plan provided pursuant to sub-paragraph (3) must not materially exceed the forecast annual passenger numbers shown for the equivalent time periods for the airport with the authorised development in Table 9.2-1 of the forecast data book.

(7) Thames Water Utilities Limited must confirm in writing within twelve months of the provision of the development phasing plan pursuant to sub-paragraph (3) whether its infrastructure will be able to

accommodate the additional foul water flows from the airport for the ten-year period after the commencement of dual runway operations

(8) The commencement of Work No. 44 (wastewater treatment works) must not take place until either—

(a) Thames Water Utilities Limited confirms that its infrastructure will not be able to accommodate the additional foul water flows;

(b) Thames Water Utilities Limited has not provided any confirmation pursuant to sub-paragraph (7) within the time period specified therein; or

(c) Thames Water Utilities Limited has not responded pursuant to sub-paragraph (4)(a) or (4)(c) within the time period specified therein,

unless otherwise agreed in writing by Thames Water Utilities Limited.

(9) The commencement of dual runway operations must not take place until either—

(a) Work No. 44 (wastewater treatment works) has been completed, and an application has been submitted for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 for its operation; or

(b) Thames Water Utilities Limited confirms that its infrastructure will be able to accommodate the additional foul water flows,

unless otherwise agreed in writing by Thames Water Utilities Limited.

Western noise mitigation bund

32.—(1) The commencement of dual runway operations must not take place until Work No. 18(b) (replacement noise bund and wall) has been completed.

(2) Once completed, Work No. 18(b) must not be removed unless otherwise agreed in writing by CBC.

(3) During the carrying out of Work No. 18(a) (removal of existing western noise bund) and the construction of Work No. 18(b) (replacement noise bund and wall), no ground engine testing may take place on Work No. 4(i) (Taxiway Juliet West Spur) unless otherwise agreed in writing by CBC.

North and South Terminal roundabouts BAU improvement scheme

33.—(1) Prior to the first of—

(a) the commencement of dual runway operations;

(b) the commencement of the first of Work No. 35 (South Terminal Junction improvements) and Work No. 36 (North Terminal Junction improvements); or

(c) the third anniversary of the commencement of the authorised development,

the North and South Terminal roundabouts BAU improvement scheme must be completed, unless otherwise agreed with National Highways.

(2) In this requirement—

(a) "North and South Terminal roundabouts BAU improvement scheme" means a scheme of construction, not forming part of the authorised development, to implement traffic signal control and add further entry and exit lane and roundabout circulatory capacity at the North and South Terminal roundabouts, to be agreed with National Highways and to be in general accordance with the North and South Terminal roundabouts BAU improvement scheme plans and the detailed design of which will be agreed separately with National Highways; and

(b) "North and South Terminal roundabouts BAU improvement scheme plans" means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.).

Office occupier

34. Work No. 28(b) (office at Car Park H site) must only be occupied by an entity related to, or whose business and/or operations are related to, the airport, air travel and/or aviation, unless otherwise agreed in writing by CBC.

Odour monitoring and management plan

35. From the date of the commencement of the authorised development, the authorised development and the operation of the airport must be carried out in accordance with the odour monitoring and management plan unless otherwise agreed in writing by CBC (in consultation with RBBC).

36.—Not used.

Car parking spaces

37.—(1) Notwithstanding the provisions of Class F of Part 8 (transport related development) of Schedule 2 to the 2015 Regulations (or any order revoking and re-enacting that Order with or without modification) no additional car parking shall be provided within the Order limits unless otherwise agreed by CBC.

(2) In sub-paragraph (1), "additional car parking" means—

(a) The provision of more than 53,260 car parking spaces; or

(b) Allowing the parking of more than 53,260 airport passengers' and staff cars at any given time.

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

(4) In this requirement—

(a) "car parking spaces" means space or spaces available for all car parking products provided by the undertaker including self-park, block-park, valet parking, staff parking and any other parking types used by airport passengers and staff within the Order limits; and

(b) "staff" means those people who are employed directly by Gatwick Airport Limited or any other employer at the airport and who class the buildings and operational areas of the airport as their main place of work (in accordance with employer and employee travel surveys).

(5) In sub-paragraph (2) the number "53,260" includes a maximum of 47,180 car parking spaces for airport passengers or a maximum of 47,180 airport passengers' cars, as appropriate.

Speed limit monitoring

38.—(1) No part of Work Nos. 35, 36 or 37 (surface access works) is to commence until a speed limit monitoring plan for those works has been submitted to and approved in writing by West Sussex County Council (in consultation with Surrey County Council and National Highways).

(2) The speed limit monitoring plan must include—

(a) as a minimum, one survey to be carried out before commencement of the first of Work Nos. 35, 36 or 37 (surface access works) and two surveys to be carried out after completion of the last of those works to assess the changes in traffic speed on the local and strategic highway networks;

(b) the locations to be monitored and the methodology to be used to collect the required data;

(c) the periods over which traffic is to be monitored (each such period to be no longer in duration than 14 days);

(d) the submission of survey data and interpretative reports to West Sussex County Council; and

(e) a description of the manner in which the undertaker would propose to address excessive speeding identified through the monitoring.

(3) The authorised development must be carried out in accordance with the speed limit monitoring plan approved pursuant to sub-paragraph (1) unless otherwise agreed in writing with West Sussex County Council (in consultation with Surrey County Council and National Highways).

Tree balance statement

39.—(1) The undertaker must submit a tree balance statement to CBC for approval—

(a) within 3 months of the date of commencement of dual runway operations;

(b) within 3 months of the third anniversary of commencement of dual runway operations; and

(c) within 3 months of the sixth anniversary of commencement of dual runway operations.

(2) The tree balance statements referred to in sub-paragraph (1) shall follow the methodology set out in Policy CH6 of the Crawley Borough Council Local Plan 2015-2030 and the accompanying Green Infrastructure SPD 2016, and must include the following totals up to and including the date of commencement of dual runway operations and the third and sixth anniversaries respectively—

(a) the total number of trees that have been removed as part of the authorised development;

(b) the total number of replacement trees that are required on the basis of the CBC tree replacement requirement; and

(c) the total number of trees that have been provided as part of the authorised development.

(3) In the event that the tree balance statement submitted on the sixth anniversary of the commencement of dual runway operations pursuant to sub-paragraph (1)(c) identifies that the total number of trees that has been provided as part of the authorised development is less than that required by the application of the CBC tree replacement requirement, the undertaker must pay the tree mitigation contribution to CBC within 60 days of the approval of the tree balance statement by CBC under sub-paragraph (1).

(4) In this requirement—

(a) "CBC tree replacement requirement" means the number of replacement trees required on the basis of the number as per paragraph (2)(a), calculated in accordance with the table in Policy CH6 (Tree Planting and Replacement Standards) of Crawley 2030: Crawley Borough Local Plan 2015-2030 (adopted on 16 December 2015); and

(b) "tree mitigation contribution" means the sum sought pursuant to Policy CH6 (Tree Planting and Replacement Standards) of Crawley 2030: Crawley Borough Local Plan 2015-2030 (adopted on 16 December 2015) and calculated in accordance with the tree mitigation formula to be paid to CBC and used towards the provision of tree planting and maintenance in the borough of Crawley or within the area of any of the host authorities which is a district council; and

(c) "tree mitigation contribution formula" means the formula as set out in paragraphs 3.13 to 3.14 and Table 1 of the CBC Green Infrastructure Supplementary Planning Document (adopted on 5 October 2016).