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**Representations raised on behalf of HX Properties Ltd to
Matter 5: Gatwick Airport**

December 2023

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MATTER 5: GATWICK AIRPORT

Issue 1: Whether the Overall Approach to Gatwick Airport is Justified, Effective and Positively Prepared

Q5.11 Is the approach in Policy GAT3 to Gatwick Airport related parking soundly based (in large part as a continuation of 2015 Local Plan policy)?

Q5.12 Would Policy GAT3 provide an effective framework for managing car parking demand associated with the airport within the Borough, having regard to, amongst other matters, permitted development rights on airport “operational land”, the latest Airport Surface Access Strategy and objectives for modal shift relating to the Airport’s operations?

Q5.13 Does Policy GAT4 provide a justified and effective framework for non-airport related employment floorspace within the airport boundary?

The reasoned justification behind Policy GAT3 is fundamentally unsound, for reasons which were not advanced in any representations discussed at the time of the Examination in Public into the Crawley Borough Local Plan 2015-2030. Policy GAT3 is unnecessary with its provisions only applicable to the “*relevant airport operator*”, having taken no account of, and/or being fundamentally inconsistent with the provisions of Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

It is accepted by my clients that there are two separate limbs to Policy GAT3, both of which have to be complied with for a proposed development to be acceptable.

The first limb requires any additional or replacement airport parking to be located within the airport boundary. The overwhelming majority of the land indicated within the airport boundary on the submitted Proposals Map, being the controlling mechanism behind Policy GAT3, amounts to “*Operational Land*” as defined in Section 263 of the Town & Country Planning Act 1990 (As Amended). The “*relevant airport operator*” (in this case GAL) can construct at any time surface car parking, decking or multi-storey car parks in accordance with the above-mentioned permitted development right without the need to obtain express planning permission. Importantly, there is no limitation or condition associated with the same permitted development right requiring the “*relevant airport operator*” having to justify the second limb of Policy GAT3, through “... a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport”.

The recently submitted DCO application for the Northern Runway Project has triggered the need for an Environmental Impact Assessment (EIA). It is only in the event that the DCO application

is refused, that the “*relevant airport operator*” could in the future continue to benefit from permitted development rights. This is because permitted development rights are not applicable to any environmentally sensitive development under the EIA regime, whilst the Applicant has not sought to ensure that permitted development rights will continue to apply through a screening opinion.

In considering the second limb of Policy GAT3, an examination has been undertaken of consultations submitted by GAL to Crawley Borough Council relating to additional on-airport car parking, along with applications seeking permission for either new car parking or variations of conditions relating to existing on-airport hotels, in the period since the formal adoption of the Crawley Borough Local Plan 2015-2030.

This exercise considered seven applications, the details of which are set out in Table 1 contained in Appendix 1 to these representations, from which the following conclusions arise:-

- A. There is a notable absence in six of the seven applications following adoption of the Crawley Borough Local Plan 2015-2030, of any evidence provided by GAL to justify a demonstrable need for the particular car parking proposal in accordance with the second limb of Policy GAT3. On each occasion Crawley Borough Council offered either “*no objection*”, or planning permission was granted for the particular hotel parking proposal.
- B. In the case of Application Nos. CR/2017/0523/CON, CR/2018/0935/CON and CR/2019/0878/CON, GAL as the “*relevant airport operator*” drew attention to the fact that development plan policies are devoid of any weight in circumstances where applications are reliant on permitted development rights, reindorsing the underlying reason why my clients consider Policy GAT3 to be unsound.
- C. The principal justification advanced by the LPA for recommending “*no objection*” on Application No. CR/2017/0523/CON relies on what is referred to as achieving a sustainable approach to surface access to the airport. That phrase ignores the requirement to justify a “*demonstrable need*” in the context of proposals for achieving a sustainable approach to surface transport access to the airport. Notwithstanding the primacy afforded to permitted development rights, if all that is required is to refer to a sustainable approach to surface transport access to the airport, (effectively reindorsing the first limb of Policy GAT3), means that in the second limb of Policy GAT3 is both redundant and

unnecessary. The Borough Council's approach in its recommendation on Application No. CR/2017/0523/CON is of particular concern to HX Properties Ltd in that GAL, a private company, takes on the role of a monopoly in the provision of airport related passenger car parking, removing choice from the consumer.

This should be viewed in the light of the fact that from a competition law perspective, GAL already enjoys a dominant position in surface access facilities provided at London Gatwick Airport, being present in the upstream market (i.e. facilities at an airport such as bus stations or car parks), as well as in the downstream market (i.e. allowing providers to access facilities at the airport), where they relate to all levels of surface access provision.

The absence of any robust consideration and proper interpretation of the second limb of Policy GAT3 is distinctly likely to further strengthen the airport operator in favouring its own services when granting access to facilities also needed by its rivals. The circumstances in which the interests of a private company may be viewed as trumping that of a local authority as guardians of the public interest can be witnessed from the stance adopted by GAL who on the one hand consider that only an additional 1,100 passenger car parking spaces are required to meet the needs of the submitted DCO application through to 2047; yet on the other, resist the logistics development of land at Gatwick Green on the basis that 95,750 car parking spaces are required to serve a proposed second runway, to some unknown date in the future.

- D. Application No. CR/2018/0935/CON which sought a robotic car park pilot project for a temporary period of three months reveals that the Borough Council was aware that similar consultations seeking incremental improvements of on-airport car parking capacity could lead to the 45mppa cap enshrined in the Gatwick Airport Surface Access Strategy 2018 being exceeded. The trial period was anticipated to re-start this year, but no results have been released by the airport operator.
- E. It is evident from Application No. CR/2018/0337/OUT concerning the erection of a hotel multi storey car park at the Hilton (South Terminal) Hotel that previously it was GAL's view that car parking for the hotel's guests should not be considered as part of GAL's airport related passenger car parking supply, and that the "*relevant airport operator*" intends to meet its own demand for airport related passenger car parking on its own land. That position appears to have subsequently changed in that it is not reflected in

subsequent application Reference No. CR/2020/0707/NCC where GAL were also the applicant, and where guests staying at the Hampton by Hilton Hotel were encouraged to use parking spaces within the new Multi Storey Car Park 7, due to the same hotel having no designated car parking.¹

- F. The local planning authority's justification for granting planning permission in respect of Application No. CR/2018/0337/OUT is both convoluted and contradictory.

It is said that the erection of a new multi-storey car park for the Hilton (South Terminal) Hotel would assist in making best use of the existing runway, and as the location of the multi-storey car park was on-airport, there was a demonstrable need for the parking in the context of proposals to improve public transport access to the airport. This confuses the locational considerations set out the first limb of Policy GAT3 with the second limb, for which a "*demonstrable need*" is required to be shown.

It was further indicated by the Local Planning Authority in both proposals concerning the Hilton (South Terminal) Hotel submitted under Reference Nos CR/2018/0337/OUT and CR/2020/0575/NCC, that as a consequence of the erection of the multi-storey car park, the reason given by the applicant that there would be a reduction in kiss-and-fly modes had not been clearly evidenced. Having made that submission in both applications, the Case Officer then proceeds to declare that the contribution to parking capacity on-airport as passenger numbers increase provides the option of parking adjacent to the hotel rather than using kiss-and-fly or less sustainable locations off-airport, and therefore the proposal could help discourage kiss-and-fly. No evidence at any time has been produced as part of any application, to demonstrate that by providing hotel car parking on-airport, a reduction in the kiss-and-fly mode would ensue.

- G. It is also apparent that there are a number of hotels on-airport where no car parking spaces have been provided to meet the needs of their guests, namely the Hampton by Hilton Hotel, and the BLOC Hotel and the Yotel, the latter situated at the South Terminal. In these circumstances, those passengers wishing to drive to an airport hotel and park their car on-airport, have no choice but to use the various on-airport public car parking

¹ The Airport Surface Access Strategy 2022-2030 states on page 40 that the new MSCP at the Hilton South Terminal (hotel) "(whilst this is not a GAL project, it is considered "on-airport" from a planning perspective)

facilities, despite what was indicated by GAL in its representations on Application No. CR/2018/0337/OUT. It is also the case that the new Multi-Storey Car Park 7 will result in the removal of existing car parking spaces previously occupied by staff, as well as by the Hampton by Hilton Hotel guests, with the staff car parking relocated elsewhere to other staff car parks on-airport. This appears to be an evolving process as evident from the documentation recently submitted as part of the DCO application for the Northern Runway Project where staff car parking spaces are now largely being reallocated for passengers.

Policy GAT3 does not provide an effective framework for managing car parking demand associated with the airport within the Borough. It is a tool for reinforcing the prominence of the airport as a sustainable location for passenger car parking, with the added benefit to the operator of reliance placed on available permitted development rights. There remains an inherent contradiction between GAL's aim of focusing attention on public transport access to the airport in compliance with Government policy, with the need to maximise revenue derived from passenger car parking income, itself an important contributor to the Sustainable Transport Fund.²

The Local Planning Authority and GAL have limited control over external stakeholders involved in public transport provision, which pursue different policy objectives with no coordinated transport procedure between different transport providers. At best, Crawley Borough Council and GAL can only encourage new connections and services, as GAL is not a service provider, neither does it control fares set by different transport companies, and nor is it in a position to resolve capacity issues on public transport networks.

For instance, neither body is in a position to resolve capacity issues on the South Coast Main Line involving the Croydon Area Remodelling Scheme (CARS), nor are they able to ensure the commercial viability of bus and coach services, both of which are operationally challenging. A particularly serious issue is that arising from the Borough Council's response dated 1st September 2021 to the Preliminary Environmental Impact Report (PEIR) forming the basis of a

² The importance to be attached to car parking revenue becomes evident from the latest Financial Statement prepared on behalf of the companies who own London Gatwick Airport (Ivy Holdco Ltd) (which shows an increase in car parking revenue of £14.5m (equivalent to 13.1% of total airport revenue received in 2022 principally as a result of the introduction of forecourt charges paid by passengers, along with long term off-airport car parking operators) compared with the pre-Covid year of 2019.

consultation exercise with GAL in advance of the submission of the Northern Runway Project DCO application, at which time concern was expressed that Gatwick Airport Railway Station has been designed to cater for an anticipated growth to 48mppa, with more ambitious proposals having been curtailed due to cost. A proposed passenger increase of 80.2mppa, 32mppa more than the station is currently designed to handle, represents a severe infrastructure constraint, especially when the DCO application anticipates a minimum proposed sustainable transport mode share of 55%, three years after the opening of the runway in 2032, a significant proportion involving rail mode.

There have been a number of applications and appeals for long term off-airport car parking which both the Local Planning Authority and The Planning Inspectorate have found to occupy “sustainable locations”, at the same time offering “customer choice”³, consistent with those principles outlined in CAA’s Consumer Strategy published as recently as 29th September 2023, which in the context of aviation states:-

“One of the CAA’s purposes is to support consumers in relation to choice, value and fair treatment. The consumer principles can help provide a framework to enable this.”

Clause 5.6.1 of the Section 106 Planning Obligation involving Crawley BC, West Sussex CC and GAL, executed on 24th May 2022 is reproduced below:

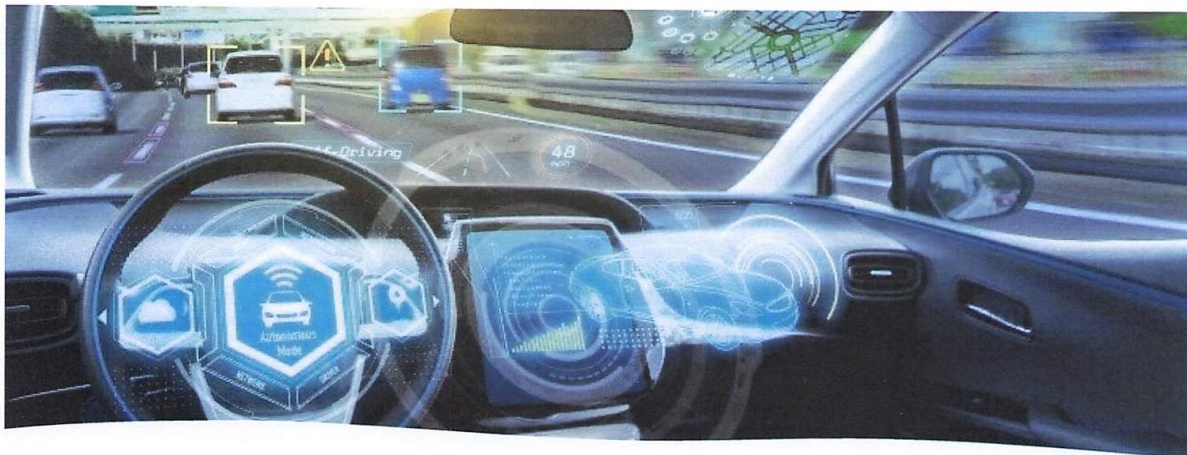
“5.6.1 Provide sufficient but not more on-airport public car parking spaces than necessary to achieve a combined on and off airport supply that is proportionate to 48% of non-transfer passengers choosing to use public transport for their journeys to and from the airport by end of 2024.”

The 2022-2030 ASAS published in October 2022 comprising five targets, of which target 1 seeks to achieve 52% of passenger journeys to the airport by public transport by 2030 under scrutiny of the Public Transport Forum Steering Group, as part of meeting a target of 60% by sustainable modes and ultra-low or zero emission vehicles. goes further than the recently executed Section 106 Planning Obligation, casting doubts on what modal share targets are to be relied upon.

The future of airport access is changing, with the introduction of digital technology along with business model innovations generating a new breed of ride-sharing and ride-hailing services

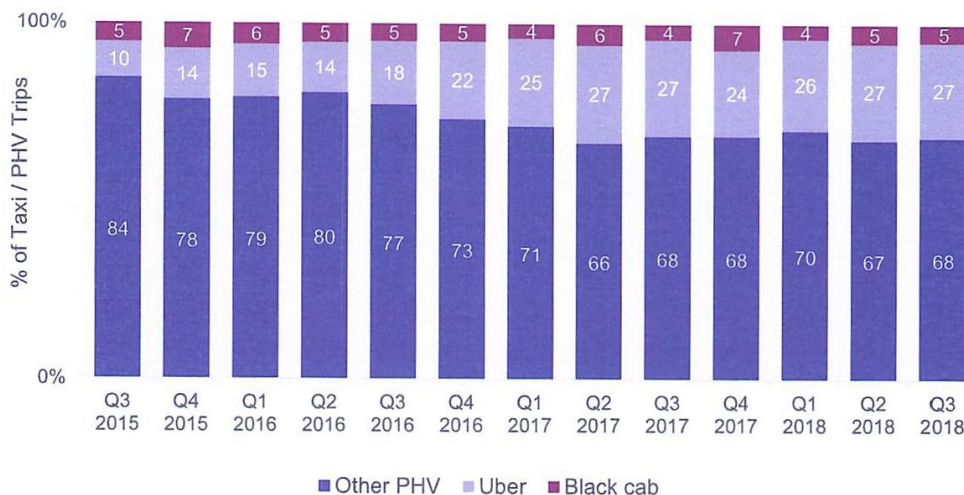
³ See appeal decisions at Acacia Grove, Copthorne (PINS Ref 2153589); City Place, Crawley (PINS Ref 2171971 & 2071972); and the Case Officer’s report at Southways Business Park (Crawley BC Ref. No. CR/2013/0094/FUL); Site E2 Crawley Business Quarter (Crawley BC Ref. No. CR/2014/0090/FUL and the Former BOC Edwards Site (CR.2014/0615/FUL).

such as Uber, Lyft, DiDi etc, collectively known as transportation network companies (TNCs). These mobility options whilst increasing choice and reducing costs for passengers, bring uncertainty to airport operators and investors, and the changes are only the beginning, with the rise in electric vehicles; connected and autonomous vehicles (CAVs); mobility as a service (MaaS), allowing passengers to gather information, plan travel and make bookings according to various options.



Graphic 2.10:

Change in types of taxis/private hire trips made by passengers (% of total)



Source: Heathrow Airport Ltd Surface Access Proposals June 2019

Airports such as London Gatwick should not take a passive approach to this changing landscape, but respond in the short term to ensure airport access and parking pricing is providing appropriate economic signals; differentiate between kerbside and other pick-up/drop-off areas; develop more sophisticated parking models including dynamic pricing (i.e by hour,

day, weekend vs workday) and new products, at the same time improving communication as a precursor to MaaS.

The approach which has now been adopted by London Luton Airport in its recent DCO application, and which is also being promoting by London Heathrow Airport in its forthcoming DCO application, is to set out a binding framework giving additional certainty in forecasting environmental effects in a comprehensive and transparent way, ensuring exceedances are prevented through the performance of fixed mitigation measures as a means of managing the growth of an airport. It is a process secured through the Development Consent Order, where the intention of the airport operator is to continually monitor and report on the extent of the environmental effects associated with the airport, based on four categories, namely, (i) aircraft noise; (ii) air quality; (iii) greenhouse gas emissions or carbon emissions; and (iv) surface access.

The approach taken with regard to surface access in the Luton Airport DCO application is based on the percentage of passengers and percentage of staff travelling by unsustainable modes of transport. The framework known as Green Controlled Growth sets out proposed limits for each of the two areas associated with surface access, with two threshold levels that are lower than the limits, providing an early warning of any potential increase in environmental effects, with the aim of ensuring the same limits are not breached.

An independent body known as the Environmental Steering Group, in the case of London Luton Airport, oversees the framework, making sure it works in practice, and should monitoring work indicate that a limit was in danger of being breached, mitigation plans would be required. In the event further breaches occur, growth of the airport would be stopped by controlling the slot allocation process, with the airport constrained until the environmental performance returned below the limit.

In place of checks or limits set by modal share targets, implementing limits through the framework creates a dynamic mechanism, ensuring future growth is dependent on ensuring clear environmental objectives which can be observed in the real world.

It is contended that Policy GAT4 does not provide a justified and effective framework for non-airport related employment floorspace within the airport boundary. On the contrary it is considered that non-airport related floorspace should be concentrated in Crawley Town Centre

to satisfy the aims and intentions set out in the “*One Town Crawley’s Economic Recovery Plan 2022-2027*” and thereby secure its vibrant and sustainable economic future.

My clients support the carefully reasoned arguments prepared by York Aviation [PS/EGSM/GA/18] read in conjunction with Appendix 4 “*Gatwick Green: Safeguarding*” prepared by Mott MacDonald which together provide ample justification as to why the same land should no longer be safeguarded for airport related passenger car parking.