

SECTION 77 TOWN AND COUNTRY PLANNING ACT 1990 – REFERENCE OF APPLICATIONS TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

REFERENCES: APP/L2250/V/10/2131934 & APP/L2250/V/10/2131936 (THE "APPLICATIONS")

RELATING TO LAND AT LONDON ASHFORD AIRPORT, LYDD, ROMNEY MARSH, KENT TN29 9QL

# Summary Note for the Planning Inspector on the Section 106 Agreement and proposed Conditions

Date: September 2011

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## 1. PURPOSE OF THIS SUMMARY NOTE

- 1.1 This summary note has been prepared by Pinsent Masons LLP (on behalf of London Ashford Airport Limited) and Ashfords LLP (on behalf of Shepway District Council) to assist the Inspector in understanding the key provisions of:
  - 1.1.1 the proposed conditions to be attached to any planning permission granted in respect of the proposed Runway Extension (CD17.24) (the "**RE Conditions**");
  - 1.1.2 the proposed conditions to be attached to any planning permission granted in respect of the proposed Terminal Building (CD17.25) (the "**TB Conditions**"); and
  - 1.1.3 the final form section 106 agreement (CD17.23) (the "**S106**").
- 1.2 Shepway District Council has agreed the RE Conditions, the TB Conditions and the S106 and Natural England has confirmed that it has no further comments on the drafting of the RE Conditions, the TB Conditions and the S106.
- 1.3 The RE Conditions, the TB Conditions and the S106 will secure the various planning restrictions and mitigation measures that are necessary during construction and operation of the proposed Runway Extension and that are necessary during the construction and operation of the proposed Terminal Building should planning permission be granted for the Applications by the Secretary of State for land at London Ashford Airport, Lydd, Romney Marsh, Kent, TN29 9QL.
- 1.4 This summary note does not intend to summarise all of the provisions of the RE Conditions, the TB Conditions and the S106. Rather it sets out those provisions of particular relevance to the Inspector. It is recommended that a full review of the RE Conditions, the TB Conditions and the S106 is undertaken in conjunction with reading this summary note.
- 1.5 This summary note also sets out how the obligations contained in the S106 comply with Regulation 122 of The Community Infrastructure Levy Regulations 2010, which states: "*a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:*

- 1.5.1 *necessary to make the development acceptable in planning terms;*
- 1.5.2 *directly related to the development; and*
- 1.5.3 *fairly and reasonably related in scale and kind to the development."*

1.6 Unless defined in this summary note, the terms used in this summary note have the same meaning as in the RE Conditions, the TB Conditions and the S106.

## 2. **PARTIES TO THE S106**

2.1 The parties to the S106 are:

### 2.1.1 **Shepway District Council**

- (a) Shepway District Council is the local planning authority for the purposes of the 1990 Act for the area in which the Airport Site is situated and by whom the obligations contained in the S106 are enforceable.
- (b) Further, Shepway District Council is the freehold owner of those parts of the Airport Site shown for illustrative purposes only edged blue and pink on the plan attached at Appendix 2 to the S106 and which the same is registered with title absolute under title numbers K256543 and K414727 at the Land Registry and which is the only superior title to the Airport Operator's long leasehold title.

### 2.1.2 **London Ashford Airport Limited**

- (a) London Ashford Airport Limited (the "**Airport Operator**") is the Relevant Airport Operator of the Airport and:
  - (i) is the freehold owner of those part of the Airport Site shown for illustrative purposes only edged purple on the plan attached at Appendix 2 to the S106 and which the same is registered with title absolute under title number K561277 at the Land Registry; and
  - (ii) is the leasehold owner of those parts of the Airport Site shown for illustrative purposes only edged green on the plan attached at Appendix 2 to the S106 and which the same is registered with title absolute under title number K524821 at the Land Registry.

### 2.1.3 **HSBC Bank Plc**

- (a) Pursuant to a charge dated 20 May 2001, HSBC (the "**Mortgagee**") is the legal mortgagee of those parts of the Airport Site of which the Airport Operator is the freehold owner and leasehold owner.

## 3. **CONDITIONALITY**

3.1 Except for those obligations listed in paragraph 3.2 below, the S106 is conditional upon and shall not take effect until both of the following events have occurred:-

- 3.1.1 the grant of the Runway Extension Planning Permission or both of the Planning Permissions; and

- 3.1.2 development pursuant to either Planning Permission has been Commenced and then the S106 shall take effect only in respect of matters relating to the Planning Permission which has been Commenced.
- 3.2 Where the trigger for obligations within the S106 is prior to the Commencement of the Runway Extension or prior to the Commencement of the Terminal Building, these obligations take effect immediately upon the grant of the Runway Extension Planning Permission or both Planning Permissions (as applicable), including:
- 3.2.1 not to Commence the Terminal Building unless and until the Runway Extension has been Commenced (paragraph 1.1, Schedule 1, S106);
  - 3.2.2 the Routing Plan obligation (paragraph 2, Schedule 1, S106);
  - 3.2.3 the Survey Fee for the Sound Insulation Survey (paragraphs 16.1, 16.2, 16.3 and 16.4, Schedule 1, S106);
  - 3.2.4 extending the updated baseline water vole, grass snake, common lizard and bat surveys to the 1km Survey Area (paragraph 21, Schedule 1, S106);
  - 3.2.5 the ABAP Panel (paragraph 22, Schedule 1, S106); and
  - 3.2.6 the development monitoring fee for pre-Commencement obligations (paragraphs 24.1.1 and 24.1.2, Schedule 1, S106).
- 3.3 Note that the Airport Operator is restricted from:
- 3.3.1 Commencing the Terminal Building unless and until the Runway Extension has been Commenced; and
  - 3.3.2 Operating the Terminal Building until completion of the Runway Extension

which accords with the assessments carried out in the Environmental Statements submitted with the Applications.

#### 4. **LAND BOUND AND SUPPLEMENTAL SECTION 106 AGREEMENT**

- 4.1 The S106 will bind:-
- 4.1.1 the Airport Operator's freehold land shown for illustrative purposes only edged purple on the plan attached at Appendix 2 to the S106; and
  - 4.1.2 the Airport Operator's long leasehold land shown for illustrative purposes only edged green on the plan attached at Appendix 2 to the S106.
- 4.2 At the time of completing the S106, the Airport Operator does not have a legal interest in the Runway Extension Additional Land (shown hatched blue on the plan attached at Appendix 2 to the S106). Clause 7.3 of the S106 prevents the Airport Operator from Operating the Runway Extension unless and until the Airport Operator has acquired a freehold interest in the Runway Extension Additional Land. Clause 7.2 of the S106 then requires the Airport Operator to enter into the Supplemental Section 106 Agreement for the purpose of ensuring that the relevant obligations undertaking covenants or agreements in the S106 bind the Runway Extension Additional Land.
- 4.3 This is a usual provision that enables any additional land acquired after the completion of a section 106 agreement to be brought within the remit of the section 106 agreement.

4.4 Schedule 3 of the S106 contains the Supplemental Section 106 Agreement.

5. **SUMMARY OF KEY CONDITIONS AND SECTION 106 OBLIGATIONS**

5.1 **Additional Definitions:**

5.1.1 "RE" means that the condition will be attached to the Runway Extension Planning Permission;

5.1.2 "TB" means that the condition will be attached to the Terminal Building Planning Permission; and

5.1.3 "LPA" means Shepway District Council.

5.2 **Measures to reduce and prevent Operational Noise Effects**

Operation	
S106 obligation	Noise Management Plan
<p><b>Paragraph 13, Schedule 1</b></p>	<p>The Airport Operator is not to Operate the Runway Extension unless and until the First Noise Management Plan has been approved by the LPA and implemented by the Airport Operator.</p> <p>The geographical area enclosed by the 57dB LAeq, 16hr annual average mode daytime noise contour cannot exceed 1.8km2 until the Second Noise Management Plan has been approved by the LPA and implemented by the Airport Operator.</p> <p>Following approval of the Second Noise Management Plan, the geographical area enclosed by the 57dB LAeq, 16hr summer average mode daytime noise contour cannot exceed a total area of 2km2.</p> <p>These noise contour constraints are the most effective way of controlling the noise impact from an increase in Aeroplane movements.</p> <p>The First Noise Management Plan is to include:</p> <ol style="list-style-type: none"> <li>1. the siting of ground operations to ensure that sensitive receptors are not subject to unnecessary ground noise;</li> <li>2. the use of auxiliary power units to be limited to up to a maximum of five minutes after "on blocks" and up to a maximum of thirty minutes before estimated time of departure;</li> <li>3. engine ground running for maintenance purposes to be only permitted within a maximum period of 0800-2000 Monday to Friday and 0900-1700 on weekends and bank holidays;</li> <li>4. the establishment of lines of communication between the Airport Operator and local residents; and</li> <li>5. the production of retrospective noise contours for the previous Operating Calendar Year illustrating the annual and summer average noise levels in the previous Operating Calendar Year and the calculation of the geographical area covered by the 57 dB(A) noise contour.</li> </ol>

	<p>The Second Noise Management Plan is to include all of the items in the First Noise Management Plan together with:</p> <ol style="list-style-type: none"> <li>1. noise abatement operating procedures including a penalty system for those pilots of Aeroplanes using excessive thrust when departing the Airport. Any fines resulting from the penalty system to be donated to a community fund to be administered jointly by the LPA and the Airport Operator for the environmental improvement of community and recreational projects within a 5 kilometre radius of the Airport;</li> <li>2. the monitoring of LMax levels from Aeroplanes departing the Airport together with a LMax infringement threshold for each Aeroplane type using the Airport;</li> <li>3. the monitoring of ground operations at the Airport;</li> <li>4. the provision of no less than two noise monitoring stations; and</li> <li>5. a requirement for the monitoring results, before they are submitted to the LPA, to be audited by suitably qualified noise consultants.</li> </ol> <p>These noise management plans are to be complied with for the life of the Runway Extension and the Terminal Building.</p> <p>The Airport Operator will annually submit retrospective noise contours and the noise monitoring results to the LPA, including a scheme of noise response measures should the need for them be identified as a result of the monitoring.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 15, Schedule 1</b></p>	<p><b>Reporting and Noise Complaints</b></p> <p>To assist the LPA in monitoring and enforcing paragraph 13, Schedule 1 of the S106 (as well as other S106 obligations, the RE Conditions and the TB Conditions), the Airport Operator is required to submit to the LPA, every three months following the Runway Extension coming into Operation, a report comprising details on:</p> <ol style="list-style-type: none"> <li>1. the number of Public Transport Aircraft passengers passing through the Airport;</li> <li>2. the number of Aeroplane and Helicopter flight movements;</li> <li>3. the weight bands, aircraft Chapter and runway use of Aeroplanes taking off and landing at the Airport;</li> <li>4. the results of the monitoring carried out pursuant to the approved Second Noise Management Plan together with identification of any breaches of the approved Second Noise Management Plan; and</li> <li>5. any noise complaints made to the Airport Operator by the public, including details of the address of the complainant, nature of complaint and response of the Airport Operator.</li> </ol>

	<p>Regarding the establishment of lines of communication required by the First Noise Management Plan, the Airport Operator is to establish and thereafter publicise (including through mechanisms such as the Airport's website, newsletters and the LPA) and maintain a noise complaints service during 07.00 and 23.00 which shall investigate the cause of all noise complaints made to the Airport Operator by the public. The Airport Operator is to provide a written response to each formal complaint as part of the noise complaint service indicating the outcome of the investigation and any action proposed to be taken to review or modify procedures as a result of the complaint.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 16, Schedule 1</b></p>	<p><b>Greatstone Primary School</b></p> <p>The Airport Operator cannot Commence the Runway Extension unless and until the Airport Operator has paid to the LPA £10,000.00 for the LPA to make payments to Greatstone Primary School to enable Greatstone Primary School to carry out and complete or procure the carrying out and completion of a Sound Insulation Survey.</p> <p>On Completion of the Runway Extension, the Airport Operator is to pay to the LPA £90,000.00.</p> <p>The LPA is to make payments to Greatstone Primary School to enable Greatstone Primary School to carry out and complete or procure the carrying out and completion of the mitigation measures identified in the Sound Insulation Survey.</p> <p>In the event that the mitigation measures exceed £90,000.00 plus the balance of any unspent part of the survey contribution, the Airport Operator will pay to the Council, within 28 Business Days following a written request from the Council, any excess amount subject to a maximum cap of £12,000.00 (being 12% of £100,000.00).</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 14, Schedule 1</b></p>	<p><b>Operational Restrictions</b></p> <p>The S106 contains a list of 9 operational restrictions that will assist in reducing any noise impact even further from arriving and departing Aeroplanes, including:</p> <ol style="list-style-type: none"> <li>1. the use of reverse thrust (above idle power) after landing to be minimised;</li> <li>2. all departing Aeroplanes having a take off weight of 5700kg or over to use the starter extension upon departure from Runway 21; and</li> <li>3. all departing Aeroplanes to climb straight ahead to at least a height of 500 feet or to pass the upwind end of the runway whichever is the later before commencing any turn;</li> <li>4. all departing Aeroplanes having a take off weight of 5700kg or over not to turn left upon departure from Runway 21; and</li> <li>5. Helicopters departing from or landing at the Airport to use a north-westerly flight path in order to avoid the towns of Lydd and New Romney.</li> </ol>

<b>Condition (RE)</b>	<b>22</b>	<b>No night time flying</b>
<b>Condition (TB)<sup>1</sup></b>	<b>22</b>	There will be no night time flying between the hours of 23.00 and 07.00 (except for Emergency and Governmental Activities).
<b>Condition (RE)</b>	<b>18</b>	<b>Limit on aircraft movements</b>
<b>Condition (TB)<sup>2</sup></b>	<b>22</b>	The annual number of Aeroplane movements will not exceed 40,000 (excluding the Air Show).  The annual number of Helicopter movements will not exceed 1,200 (excluding the Air Show).
<b>Condition (RE)</b>	<b>21</b>	<b>Aeroplane Weight</b>
<b>Condition (TB)<sup>3</sup></b>	<b>21</b>	No aircraft exceeding 80 tonnes maximum take-off weight is to be permitted to land or take-off at the Airport.
<b>Condition (RE)</b>	<b>25</b>	<b>Control of ground operations</b>
<b>Condition (TB)<sup>4</sup></b>	<b>24</b>	Aeroplane engine power checks are not to take place within the Airport Site except within the areas known as "Hold B" and "Hold C" as shown on the plan attached to the Runway Extension Planning Permission in Annex 11 (Annex 2 for the Terminal Building Planning Permission).
<b>Condition (RE)</b>	<b>27</b>	<b>Runway 21 Right Turn</b>
<b>Condition (TB)<sup>5</sup></b>	<b>26</b>	Departing Aeroplanes from Runway 21 that have a take off weight of 5700kg or over are to turn right and follow flight path 12 <sup>6</sup> .
<b>Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)</b>		
<p>Through the RE Conditions, the TB Conditions and S106, noise will be effectively managed and controlled at the Airport in a fair and reasonable way that is directly related to the proposed development and would avoid any adverse impact on local residents. Noise management is controlled through noise contours and Aeroplane weight.</p> <p>If the Applications are approved, there will be no flying at the Airport between 23.00 and 07.00 (except for Emergency and Governmental Activities). In addition, there will be a restriction on the number of movements per annum for Aeroplanes and Helicopters <b>which includes</b> Emergency and Governmental Activities. At the moment, there are no such restrictions and the Airport can operate 24/7 with an unlimited number of movements.</p>		

<sup>1</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>2</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>3</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>4</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>5</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>6</sup> The Airport Operator does not consider that the condition is necessary. However, in so far as the Inspector considers that the condition is necessary and subject to the condition satisfying the test of necessity, the Airport Operator would be content for the condition to be imposed.

Should local residents have any concerns about noise emanating from the Airport, there will be a noise complaints procedure in place which will provide a mechanism to address any concerns.

The LPA will receive information from the Airport Operator in relation to movements and formal noise complaints, which will enable the LPA to monitor compliance with the S106 and Planning Permissions.

Greatstone Primary School is an existing school that has co-existed with the existing operational Airport for a number of years. The Environmental Statement and noise evidence before the Inquiry demonstrates that the worst case noise impact at the School occurs between the baseline year (i.e. the current position) and when the 500,000 ppa point is reached with the Terminal Building. This increase amounts to a 5 dB increase, which remains a minor impact. Nonetheless, there will be a minor noise impact which the provisions of the S106 seek to address.

Based on a mitigation option of secondary glazing, which if the School were constructed to modern standards would be sufficient to mitigate by 5 dB, the Airport Operator estimated a sum of £50,000.00 inclusive of survey costs.

Following the Greatstone Primary School Sound Insulation Performance Review report (June 2011) and discussions with the LPA, this amount has been increased to a total of £100,000.00 in recognition of the variable facade constructions on the School, and the extra works that will be required to achieve a 5 dB reduction.

Therefore, £10,000 would be paid prior to Commencement of the Runway Extension to cover the survey fee for carrying out the Sound Insulation Report. On Completion of the Runway Extension, the sum of £90,000 will be paid by the Airport Operator to the Council. A 12% contingency will also be available for Greatstone School from the Airport Operator. This payment mechanism will ensure that Greatstone Primary School receives the sum for mitigation measures early on in the growth of the Airport.

Of course, as an airport, the Airport Operator is regulated by the Civil Aviation Authority and must comply with the UK Aeronautical Information Publication (UKAIP). The UKAIP:

1. publishes noise abatement procedures which pilots must comply with. The Air Traffic Controllers can report non-compliances via an internal reporting system. The Airport is entitled to fine offending aircraft operators or ban them from further use of the Airport;
2. specifies maximum noise levels which are dependent on make/model/variant of aircraft that are allowed to operate at the Airport. All aircraft have a noise certificate containing this specific data and only those within the published levels can be given permission to operate at the Airport. The LPA is entitled to review the air traffic control flight movement log showing the aircraft type and variant. This can be cross-checked against the European Aviation Safety Agency database of noise certification; and
3. publishes local instructions regarding areas for engine runs, pre-flight checks and maintenance checks in order to minimise noise nuisance.

In terms of CIL Regulation 122, all noise S106 obligations have been discussed with the LPA and it is agreed between the LPA and the Airport Operator that the noise control S106 obligations are necessary to mitigate a minor noise impact, directly related to the Runway Extension and the Terminal Building (through the imposition of the appropriate triggers) and are fairly and reasonably related in scale and kind to the development.



5.3 Bird Control Measures

Operation	
<p><b>S106 obligation</b></p> <p><b>Paragraph 10, Schedule 1</b></p>	<p><b>BCMP</b></p> <p>Prior to the Runway Extension coming into Operation, the Airport Operator is to submit to the LPA for approval (in consultation with Natural England and the Royal Society for the Protection of Birds) the Bird Control Management Plan (<b>BCMP</b>). The BCMP, when submitted for approval, is to be substantially in accordance with the Bird Control Management Plan dated December 2010 submitted to support the Applications and also contain the details listed in the S106. Flexibility to allow the BCMP to develop during the life of the Runway Extension and the Terminal Building is provided in the definition of BCMP, which states that the BCMP may change from time to time and/or incorporate remedial measures as approved by the LPA pursuant to the S106 (refer to "Monitoring of the BCMP" and "BCMP Panel and Remedial Measures" below).</p> <p>The Airport Operator is not to Operate the Runway Extension unless and until the LPA has approved the BCMP and the Airport Operator is to comply with the approved BCMP, subject to any changes and remedial measures as may be approved by the LPA, for the life of the Runway Extension and Terminal Building.</p> <p><b>Off-Site Bird Control Measures</b></p> <p>The Airport Operator has to go through the following process before it can carry out any Off-Site Bird Control Measures (save for those measures required in an emergency to counter an immediate bird strike threat):</p> <ol style="list-style-type: none"> <li>1. (paragraph 10.1) prior to the Runway Extension coming into Operation, submit the BCMP to the LPA for approval (who must consult with Natural England and the Royal Society for the Protection of Birds). The BCMP is to contain details of any proposed Off-Site Bird Control Measures including:               <ol style="list-style-type: none"> <li>a) the likely measures to be deployed and the likely duration; and</li> <li>b) the likely scope and the likely location of the measures.</li> </ol> </li> <li>2. (paragraphs 10.3 and 10.4) before the Airport Operator carries out any Off-Site Bird Control Measures approved in the BCMP, submit further details of those Off-Site Bird Control Measures to the LPA. The Airport Operator must agree those details with the LPA (who again must consult with Natural England and the Royal Society for the Protection of Birds).</li> </ol> <p>The Airport Operator will only be able to carry out those Off-Site Bird Control Measures that have been approved and agreed by the LPA in a two staged process. Further the LPA has to consult Natural England and the Royal Society for the Protection of Birds. Therefore, Natural England and the Royal Society for the</p>

	<p>Protection of Birds are involved in every step of the process. In the unlikely event that the LPA and the Airport Operator are unable to agree the Off-Site Bird Control Measures, then the matter may be referred to an Expert pursuant to the terms of the S106. However, the Airport Operator will always have the restriction that unless the Off-Site Bird Control Measures have been agreed with the LPA or determined by the Expert (as applicable) then the Airport Operator will not be able to carry out any Off-Site Bird Control Measures (other than Bird Control Emergency Measures).</p> <p>Re-visiting of the agreed Off-Site Bird Control Measures is provided for in the S106 sections dealing with "Monitoring of the BCMP" and "BCMP Panel and Remedial Measures" (summarised below).</p> <p>Regarding Bird Control Emergency Measures, the definition in the S106 makes it clear that the measures can only be used to counter a very serious and immediate birdstrike threat to ensure air safety. Furthermore, the Airport Operator has to notify the LPA, Natural England and the Royal Society for the Protection of Birds that Bird Control Emergency Measures have been deployed including the reason for carrying out such Bird Control Emergency Measures, the duration of such Bird Control Emergency Measures, the scope and location of such Bird Control Emergency Measures and an assessment of the likelihood of carrying out such Bird Control Emergency Measures again in the next six months (amongst other matters).</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 11, Schedule 1</b></p>	<p><b>Monitoring of the BCMP</b></p> <p>Following Completion of the Runway Extension, the Airport Operator shall monitor and review the BCMP (including the Off-Site Bird Control Measures) annually and submit the results, together with any proposed changes, to the BCMP Panel.</p> <p>The S106 details the items that should be included in the monitoring and review, such as:</p> <ol style="list-style-type: none"> <li>1. any changes proposed to the BCMP; and</li> <li>2. if required following the monitoring and review of the BCMP, a scheme of remedial measures.</li> </ol> <p>The monitoring and review of the BCMP is to continue annually for the life of both the Runway Extension and the Terminal Building.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 12, Schedule 1</b></p>	<p><b>BCMP Panel and Remedial Measures</b></p> <p>Prior to Completion of the Runway Extension, the Airport Operator will invite each of Natural England and the Royal Society for the Protection of Birds to form the BCMP Panel. The purpose of the BCMP Panel is to review the monitoring and review results.</p> <p>Following the BCMP Panel's review of the BCMP monitoring and review results, the Airport Operator is to submit the BCMP monitoring and review results to the LPA for approval together with the BCMP Panel's comments and an explanatory document</p>

	<p>explaining how the BCMP Panel's comments are intended to be acted upon and where any such comments have not been accepted an explanation as to why the comments have not been included.</p> <p>Following the LPA's approval to the BCMP monitoring results and only where the approved BCMP monitoring results contains changes to the BCMP and/or a scheme of remedial measures, the Airport Operator is to:-</p> <ol style="list-style-type: none"> <li>1. comply with the approved changes to the BCMP and the approved scheme of remedial measures; and</li> <li>2. subject to the Airport Operator securing all necessary Requisite Consents, carry out the approved scheme of remedial measures as soon as reasonably practicable and in any event, and where such remedial measures are not continuous remedial measures, no later than six months following the LPA's approval.</li> </ol> <p>In the event that the LPA refuses to approve the BCMP monitoring and review results, the LPA is to notify the Airport Operator of this together with its reasons in writing and is to request the Airport Operator to reconsider those details and to submit, within a period of three months, revised details. In the event that the LPA refuses following two successive submissions, the matter is to be referred to the Expert pursuant to the terms of the S106.</p> <p>In the event that the LPA does not make a decision on whether to approve or refuse the BCMP monitoring and review results within 42 Business Days, then the matter is to be referred to the Expert pursuant to the terms of the S106.</p> <p>Following the submission of each BCMP monitoring and review results to the LPA, the annual number of Aeroplane movements in the forthcoming year are not to exceed the annual number of Aeroplane movements that occurred in the year covering the submitted BCMP monitoring and review results unless and until the LPA has approved the BCMP monitoring and review results.</p> <p>In the event that the Airport Operator is unable to secure the necessary Requisite Consents in order to carry out the scheme of remedial measures approved by the LPA or as determined by the Expert, the Airport Operator is to agree with the LPA alternative remedial measures and is to implement those measures. Again, in the event of no agreement with the LPA, the matter is to be referred to the Expert.</p>
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**Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)**

The Airport Operator has already prepared a detailed BCMP (submitted as part of the Applications) which provides assurance and flexibility such that bird control can be maintained at acceptable levels. The S106 obligations enable the LPA, Natural England and the Royal Society for the Protection of Birds to review the BCMP again following any grant of planning permission.

The proposals in the BCMP will reduce bird control impacts below current levels, by

bringing more control over activities such as bird scaring.

The performance of the BCMP will be monitored and updated so that it remains effective and pro-active. The BCMP monitoring and review results will be reviewed by the BCMP Panel before being submitted for approval to the LPA. Any Off-Site Bird Control Measures must be agreed with the LPA prior to them being carried out.

The bird control measures are directly related to the proposed development and are necessary in order to reduce and prevent any significant adverse impact on birds as a result of the development.

In terms of CIL Regulation 122, all bird control S106 obligations have been discussed with the LPA and it is agreed between the LPA and the Airport Operator that the bird control S106 obligations are necessary, directly related to the Runway Extension and the Terminal Building (through the imposition of the appropriate triggers) and are fairly and reasonably related in scale and kind to the development.

5.4 **Measures to reduce and prevent Air Quality Effects (including Carbon Commitments)**

<b>Construction</b>	
<p><b>Condition 3 (RE)</b></p> <p><b>Condition 4 (TB)</b></p>	<p><b>Construction Environmental Management Plans</b></p> <p>Construction Environmental Management Plans (<b>CEMPs</b>) have to be submitted to and approved by the LPA before any development approved under either the Runway Extension Planning Permission and the Terminal Building Planning Permission can Commence.</p> <p>Both CEMPs have to include:</p> <ol style="list-style-type: none"> <li>1. the measures set out in the Draft Construction Environmental Management Plans submitted in support of the Applications;</li> <li>2. the measures listed in Annex 1 to the RE Conditions and Annex 1 to the TB Conditions; and</li> <li>3. the measures listed in Condition 3 (RE) and Condition 4 (TB), which include monitoring of and measures to control dust emissions from plant and machinery and construction traffic, a dust-ecology inspection strategy and dust particle monitoring.</li> </ol>
<p><b>S106 obligation</b></p> <p><b>Paragraph 18, Schedule 1</b></p>	<p><b>Carbon Management Action Plan and Carbon Audit</b></p> <p>Within 12 months of Commencement of the Runway Extension, the Airport Operator is to submit a Carbon Management Action Plan for the ground operational vehicles, the Shuttle Bus Service and for energy use of Airport buildings to the LPA for approval setting out Best Practice measures to seek to minimise carbon emissions.</p> <p>Upon approval, the Airport Operator will implement the Carbon Management Action Plan in accordance with the timescales approved as part of the Carbon Management Action Plan throughout the life of the Runway Extension and the Terminal</p>

		Building.
<b>Condition (TB)</b>	<b>15</b>	The Terminal Building is to be designed to minimise carbon emissions and energy demand. No development is to be carried out until details demonstrating that sufficient renewable or low carbon energy generating equipment will be included in on or directly adjoining the Terminal Building that will achieve at least 10% of the Terminal Building's total energy requirements from renewable or low carbon sources have been submitted to and approved in writing by the LPA.
<b>Condition (TB)</b>	<b>16</b>	No development is to be Commenced until a certificate issued by or on behalf of The Building Research Establishment has been submitted to and approved in writing by the LPA demonstrating that the design of the Terminal Building will achieve a BREEAM 2006 "Very Good" or "Excellent" rating.
<b>S106 obligation</b>		<b>Air Quality</b>
<b>Paragraph Schedule 1</b>	<b>19,</b>	<p>Prior to the Runway Extension coming into Operation, the Airport Operator is to submit to the LPA for approval (in consultation with Natural England):</p> <ol style="list-style-type: none"> <li>1. an air quality management strategy (<b>AQMS</b>) in relation to the Operation of the Runway Extension and, when applicable, the Operation of the Terminal Building; and</li> <li>2. an air quality monitoring and action plan strategy (<b>AQMAPS</b>) in order to monitor the effectiveness of the AQMS.</li> </ol> <p>The Airport Operator cannot Operate the Runway Extension unless and until the AQMS has been approved by the LPA and the Airport Operator has implemented the AQMS.</p> <p>The AQMS is to be prepared in consultation with the LPA and Natural England and is to include measures to minimise emissions from gate activities and measures to minimise emissions from landside vehicles.</p> <p>The AQMAPS is also to be prepared in consultation with the LPA and Natural England and is to include:</p> <ol style="list-style-type: none"> <li>1. operation of an air quality monitoring programme for nitrogen oxides, nitrogen dioxide and ammonia;</li> <li>2. establishing a vegetation monitoring programme as set out in the S106 and consisting of permanent quadrats involving comparison between vegetation quality within a number of test quadrats within the SAC and SSSI, including areas close to/on the Airport and remote from the Airport, with co-location with air quality monitoring sites wherever practicable; and</li> <li>3. operation of a monitoring programme to assess changes in the frequency and abundance of species of specific conservation concern as set out in the S106.</li> </ol> <p>The Airport Operator is to implement and comply with the</p>

	<p>approved AQMS and the approved AQMAPS throughout the life of the Runway Extension and Terminal Building.</p> <p>Results of the monitoring carried out pursuant to the AQMAPS (together with any proposed changes to the AQMAPS and AQMS that the Airport Operator considers necessary following the results of the monitoring) are to be submitted annually to Natural England for a period of 28 Working Days consultation. Following the consultation, the Airport Operator is to submit the results and the proposed changes, together with any consultation comments received from Natural England, to the LPA for approval.</p> <p>Should the monitoring results identify any exceedences of the applicable air quality criteria in force at the time or the results indicate a need for measures to avoid or prevent any significant adverse effects arising from the Operation of the Runway Extension and/or Operation of the Terminal Building the Airport Operator will:</p> <ol style="list-style-type: none"> <li>1. carry out an investigation into the causes and submit a scheme of remedial measures to the LPA for approval (in consultation with Natural England) detailing the measures to avoid or prevent any significant adverse effects; and</li> <li>2. implement the scheme approved by the LPA as soon as reasonably practicable and in any event no later than 6 months of the LPA's approval.</li> </ol>
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**Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)**

Construction impacts on air quality are mitigated through the Construction Environmental Management Plan.

In terms of carbon reductions, the Airport has committed in the S106 to implement a Carbon Management Action Plan (covering ground operational vehicles, the Shuttle Bus Service and energy use of Airport buildings) that will assist in making the Airport more sustainable through the reduction of carbon emissions, increasing the use of renewable energy at the Airport, the feasibility of a carbon offset scheme, measures for the phased introduction of low carbon ground operational vehicles and energy use at the Airport. This S106 obligation is supported by the proposed conditions for the Terminal Building; the requirement for at least 10% of the Terminal Building's energy requirements to come from renewable or low carbon sources and the BREEAM rating of the Terminal Building.

In terms of air quality, the AQMS and AQMAPS S106 obligations have been agreed between the Airport Operator and Natural England. The obligations contain comprehensive measures to maintain air quality at the Airport within acceptable levels. Air quality will be closely monitored through the AQMAPS so that the Airport avoids and prevents any significant adverse effects arising from the development in terms of air quality. The introduction of a continuous monitor close to the SAC and a number of diffusion tubes at the Airport will mean that nitrogen deposition levels are continuously monitored.

In terms of CIL Regulation 122, all carbon and air quality S106 obligations have been discussed with the LPA and, in relation to the air quality S106 obligations, with Natural England and it is agreed between the LPA and the Airport Operator that the carbon and air quality S106 obligations are necessary, directly related to the Runway Extension and the Terminal Building (through the imposition of the appropriate

triggers) and are fairly and reasonably related in scale and kind to the development.

5.5 **Measures to reduce and prevent Ecological Effects**

<b>Construction</b>	
<p><b>Condition 3 (RE)</b></p> <p><b>Condition 4 (TB)</b></p>	<p><b>Construction Environmental Management Plans</b></p> <p>Construction Environmental Management Plans (<b>CEMPs</b>) have to be submitted to and approved by the LPA before any development approved under the Runway Extension Planning Permission and the Terminal Building Planning Permission can Commence.</p> <p>Both CEMPs have to include:</p> <ol style="list-style-type: none"> <li>1. the measures set out in the Draft Construction Environmental Management Plans submitted in support of the Applications;</li> <li>2. the measures listed in Annex 1 to the RE Conditions and Annex 1 to the TB Conditions; and</li> <li>3. the measures listed in Condition 3 (RE) and Condition 4 (TB), which include monitoring of and measures to control the environmental impact of the development during construction and a habitat management plan.</li> </ol>
<p><b>S106 obligation</b></p> <p><b>Paragraph 22, Schedule 1</b></p>	<p><b>ABAP Panel</b></p> <p>Prior to Commencement of the Runway Extension (including the Ditch Works), the Airport Operator will invite each of Natural England, Kent Wildlife Trust, Buglife and the Butterfly Conservation to be part of the ABAP Panel.</p> <p>Prior to Commencement of the Runway Extension and the Ditch Works, the Airport Operator will submit to the ABAP Panel the ABAP for comment, review and consideration.</p> <p>Following the ABAP Panel's review and prior to Commencement of the Runway Extension and the Ditch Works, the Airport Operator will submit the ABAP to the LPA for approval together with the ABAP Panel's comments and an explanatory document explaining how the ABAP Panel's comments have been included in the ABAP and where any such comments have not been included an explanation as to why the comments have not been included.</p> <p>Following completion of the Ditch Works and the mitigation approved within the ABAP, the Airport Operator is to carry out ABAP Species monitoring of the Ditch Works and the mitigation approved within the ABAP to assess the success of the mitigation. Monitoring will take place annually for the first three years following Completion of the Ditch Works and the mitigation approved within the ABAP and every five years thereafter.</p> <p>The Airport Operator is to compare the results of each survey</p>

	<p>monitoring against the results of the baseline surveys and is to submit the results and comparison to the ABAP Panel for comment and review with the aim that the ABAP Panel will be of assistance to the Airport Operator in ascertaining the habitat suitability for the ABAP Species and whether any remedial measures are required.</p>
<p><b>Condition 10 (RE)</b></p> <p><b>S106 obligation</b></p> <p><b>Paragraph 21, Schedule 1</b></p>	<p><b>The Replacement Ditch Network – Updated baseline ecology surveys</b></p> <p>No works related to the infill of or creation of ditches and water bodies pursuant to the development are to be Commenced until the Airport Operator has undertaken within the Airport Site:</p> <ol style="list-style-type: none"> <li>1. updated baseline ecology surveys for relative populations of water vole, grass snake, common lizard and medicinal leech; and</li> <li>2. updated surveys of the aquatic emergent and bank vegetation and aquatic and amphibious invertebrates.</li> </ol> <p>These updated surveys are to assist in the ecology monitoring of the Operation of the Runway Extension and Terminal Building.</p> <p>The S106 requires the Airport Operator to use reasonable endeavours to extend the updated baseline water vole survey and the updated baseline grass snake survey to the ditch network that lies within the 1km Survey Area.</p> <p>In the event that the water vole, grass snake, common lizard, medicinal leech or bat monitoring report submitted to the Council pursuant to the Runway Extension Planning Permission identifies a material decrease in the relative population of the water vole, grass snake, common lizard, medicinal leech or bat within the Airport Site and land within the 1km survey area arising from the Operation of the Runway Extension and/or Operation of the Terminal Building, the Airport Operator shall:</p> <ol style="list-style-type: none"> <li>1. carry out an investigation into the causes of such decrease and, as soon as reasonably practicable following submission of the water vole, grass snake, common lizard, medicinal leech or bat monitoring report to the Council, submit a scheme of remedial measures to the Council for approval (such approval to be in consultation with Natural England) detailing the measures to remedy such decrease; and</li> <li>2. implement, subject to the Airport Operator securing all necessary Requisite Consents, the scheme approved by the Council as soon as reasonably practicable and in any event no later than six (6) months of the Council's approval (unless otherwise agreed with the Council).</li> </ol>
<p><b>Condition 11 (RE)</b></p>	<p><b>The Replacement Ditch Network – Pre-construction submission of details</b></p> <p>No works related to the infill of or creation of ditches and water bodies pursuant to the development are to be Commenced until the Airport Operator has submitted to the LPA for approval (in</p>



	<p>consultation with Natural England):</p> <ol style="list-style-type: none"> <li>1. a construction species protection plan for each of water vole, grass snake, common lizard, medicinal leech and duckweed (see Annexures 4 to 6 of the RE Conditions);</li> <li>2. a ditch construction method statement (see Annex 7 of the RE Conditions);</li> <li>3. ditch design details of the 1300m replacement ditch length (see Annex 8 of the RE Conditions);</li> <li>4. full details of the proposed mitigation for water vole (as proposed in Annex 4 of the RE Conditions);</li> <li>5. full details of the proposed mitigation for grass snake (as proposed in Annex 5 of the RE Conditions);</li> <li>6. full details of the proposed mitigation for common lizard (as proposed in Annex 6 of the RE Conditions);</li> <li>7. full details of the proposed mitigation for medicinal leech (as proposed in CD4.12).</li> </ol>
<p><b>Condition 14 (RE)</b></p>	<p><b>Great Crested Newt – Updated baseline ecology surveys</b></p> <p>No works related to the infill of or creation of ditches and water bodies pursuant to the development are to be Commenced until the Airport Operator has undertaken within the Airport Site an updated baseline relative population estimate survey of great crested newts.</p> <p>The updated survey is to assist in the ecology monitoring of the Operation of the Runway Extension and Terminal Building.</p>
<p><b>Condition 14 (RE)</b></p>	<p><b>Great Crested Newt – Pre-construction submission of details</b></p> <p>No works related to the infill of or creation of ditches and water bodies pursuant to the development are to be Commenced until the Airport Operator has submitted to the LPA for approval (in consultation with Natural England):</p> <ol style="list-style-type: none"> <li>1. full details of the location (which shall not be on the SSSI or the SAC) and construction of great crested newt refugia (details are set out in Annex 2 to the RE Conditions);</li> <li>2. full details of the mitigation wetland features which may affect any habitat used by great crested newts (as detailed in Annex 2 to the RE Conditions);</li> <li>3. full details of exclusion methods and any amphibian fencing proposed;</li> <li>4. the timing for carrying out all the details submitted; and</li> <li>5. full details of the ongoing management proposals for the great crested newt refugia (including the proposals set out in</li> </ol>

	Annex 3 to the RE Conditions).
<b>Condition 15 (RE)</b>	<b>Moths</b>  No development is to Commence until an updated relative population estimate survey of moths has been undertaken within the Airport Site. The moth survey monitoring is to take place annually for a period of ten years commencing in the first year following Commencement.
<b>Condition 16 (RE)</b>  <b>S106 Obligation</b>  <b>Paragraph 21, Schedule 1</b>	<b>Bats</b>  No development is to Commence until an updated bat foraging and commuting behaviour survey has been undertaken within the Airport Site. The S106 requires the Airport Operator to use reasonable endeavours to extend the updated bat foraging and commuting behaviour survey to the area of land within the 1km Survey Area.  No development is to Commence until the results of the survey have been submitted to the LPA and a scheme of protection and mitigation measures have been approved.  Further, if the bat monitoring report submitted to the LPA pursuant to the Runway Extension Planning Permission identifies a material decrease in the relative population of bats within the Airport Site and land within the 1km Survey Area arising from the Operation of the Runway Extension and/or Operation of the Terminal Building, the Airport Operator is to:  1. carry out an investigation into the causes and submit a scheme of remedial measures to the LPA for approval (in consultation with Natural England) detailing the measures to remedy such decrease; and  2. implement, subject to securing all necessary Requisite Consents, the scheme approved by the LPA as soon as reasonably practicable and no later than 6 months of the LPA's approval.
<b>Operation (of the replacement ditch network)</b>	
<b>Condition 12 (RE)</b>  <b>S106 Obligation</b>  <b>Paragraph 21, Schedule 1</b>	<b>The Replacement Ditch Network – Monitoring and Remedial Actions</b>  Following completion of the 1300m replacement ditch length and mitigation, the Airport Operator is to carry out:  1. water vole, grass snake and common lizard relative population estimate monitoring of the 1300m replacement ditch length and any receptor site within the Airport Site annually for the first three years following completion of the ditch replacement and mitigation and thereafter every five years;  2. medicinal leech relative population estimate monitoring of both new water bodies and of existing water bodies within the Airport Site annually for the first three years following completion of the ditch replacement and mitigation and

	<p>thereafter every five years;</p> <ol style="list-style-type: none"> <li>3. surveys of the aquatic emergent and bank ditch vegetation of the ditches within the Airport Site annually for eight years following completion of the ditch replacement and mitigation;</li> <li>4. aquatic habitat chemical analyses of the retained water bodies, ditch sections and new ditches and water bodies within the Airport Site annually for eight years following completion of the ditch replacement and mitigation;</li> <li>5. surveys of aquatic and amphibious invertebrates to species level at water bodies and along ditches delineated into 100 metre sections within the Airport Site annually for eight years following completion of the ditch replacement and mitigation</li> </ol> <p>to assess the success of the mitigation approved.</p> <p>Should the monitoring reveal that the population of that species is not at least to the level of the results of the updated baseline surveys then an assessment for habitat suitability and management remedial measures is to be undertaken and submitted to the LPA for approval (in consultation with Natural England). The Airport Operator is then required to carry out the approved management remedial measures.</p> <p>Further, if the water vole, grass snake, common lizard or medicinal leech monitoring reports submitted to the LPA pursuant to the Runway Extension Planning Permission identifies a material decrease in the relative population of water vole, grass snake, common lizard or medicinal leech within the Airport Site and land within the 1km Survey Area arising from the Operation of the Runway Extension and/or Operation of the Terminal Building, the Airport Operator is to:</p> <ol style="list-style-type: none"> <li>1. carry out an investigation into the causes and submit a scheme of remedial measures to the LPA for approval (in consultation with Natural England) detailing the measures to remedy such decrease; and</li> <li>2. implement, subject to securing all necessary Requisite Consents, the scheme approved by the LPA as soon as reasonably practicable and no later than 6 months of the LPA's approval.</li> </ol>
<p><b>Condition 13 (RE)</b></p>	<p><b>The Replacement Ditch Network</b></p> <p>The remaining ditch lengths that are within the Airport Site and in the SSSI and the new 1300m replacement ditch length are not to be netted.</p>
<p><b>Condition 14 (RE)</b></p>	<p><b>Great Crested Newt – Monitoring and Remedial Actions</b></p> <p>Following completion of the 1300m replacement ditch length and mitigation, the Airport Operator is to carry out great crested newt monitoring of all water bodies both new and existing within the Airport Site to assess the success of the mitigation and to prevent water quality decline to existing newt breeding sites. The monitoring will be annual for the first five years following completion of the ditch replacement and mitigation and</p>

	<p>thereafter every three years.</p> <p>Should the monitoring reveal that the population of great crested newts is not at least to the level of the baseline survey then an assessment for suitability for great crested newts within the Airport site and an assessment for management remedial measures is to be undertaken and submitted to the LPA for approval (in consultation with Natural England). The Airport Operator is then required to carry out the approved management remedial measures.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 20, Schedule 1</b></p>	<p><b>Great Crested Newt Remedial Measures Scheme</b></p> <p>If the great crested newt monitoring report submitted to the LPA pursuant to the Runway Extension Planning Permission identifies a material decrease in the relative population of great crested newts in the water bodies within the Airport Site arising from the Operation of the Runway Extension and/or Operation of the Terminal Building, the Airport Operator is to:</p> <ol style="list-style-type: none"> <li>1. carry out an investigation into the causes and submit a scheme of remedial measures to the LPA for approval (in consultation with Natural England) detailing the measures to remedy such decrease; and</li> <li>2. implement, subject to securing all necessary Requisite Consents, the scheme approved by the LPA as soon as reasonably practicable and no later than 6 months of the LPA's approval.</li> </ol>
<p><b>Condition 17 (RE)</b></p>	<p><b>Medicinal Leech – netting of water bodies within the Airport Site</b></p> <p>Any netting of water bodies within the Airport Site are to be netted in accordance with the provisions in Annex 10 to the RE Conditions.</p>
<p><b>Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)</b></p>	
<p>The updated ecological baseline surveys to be undertaken prior to Commencement assist in monitoring the success of the mitigation post completion of the replacement ditch. The proposed conditions for the replacement ditch network, great crested newt, moths and bats are the product of discussions and Statements of Common Ground between the Airport Operator and Natural England.</p> <p>The ABAP will secure ecological enhancements and improved management of the Airport beyond the current position and is tailored to the proposed development, whilst the purpose of the ABAP Panel is to assist the Airport Operator in maximising the potential of the proposed development to co-exist with the surrounding environment.</p> <p>In terms of CIL Regulation 122, the ecology S106 obligations have been discussed with the LPA and with Natural England and it is agreed between the LPA and the Airport Operator that the ecology S106 obligations are necessary, directly related to the Runway Extension and the Terminal Building and are fairly and reasonably related in scale and kind to the development.</p>	

5.6 Measures to reduce and prevent Transport Effects

<b>Construction</b>	
<p><b>S106 obligation</b></p> <p><b>Paragraph 2, Schedule 1</b></p>	<p><b>Routing Plan</b></p> <p>Prior to Commencement of the Runway Extension, the Airport Operator will submit to the LPA for approval the Runway Extension Construction Traffic Management Plan. The Airport Operator has an obligation to ensure that drivers of Construction Vehicles arriving at or leaving from the Airport comply with the approved Runway Extension Construction Traffic Management Plan from Commencement of the Runway Extension to Completion of the Runway Extension.</p> <p>Prior to Commencement of the Terminal Building, the Airport Operator will submit to the LPA for approval the Terminal Building Construction Traffic Management Plan. The Airport Operator has an obligation to ensure that drivers of Construction Vehicles arriving at or leaving from the Airport comply with the approved Terminal Building Construction Traffic Management Plan from Commencement of the Terminal Building to Completion of the Terminal Building.</p> <p>Both Construction Traffic Management Plans are to contain:</p> <ol style="list-style-type: none"> <li>1. the route to be followed by Construction Vehicles;</li> <li>2. details of how the route will be communicated to drivers of Construction Vehicles which may include, so far as it is legally possible, signage on the highway network;</li> <li>3. the time periods when Construction Vehicles will be permitted to arrive at and depart from the Airport;</li> <li>4. details as to how the Construction Vehicles will be managed on-site; and</li> <li>5. details of wheel-washing facilities.</li> </ol>
<p><b>Condition 3 (RE)</b></p> <p><b>Condition 4 (TB)</b></p>	<p><b>Construction Environmental Management Plans</b></p> <p>Construction Environmental Management Plans (<b>CEMPs</b>) have to be submitted to and approved by the LPA before any development approved under the Runway Extension Planning Permission and the Terminal Building Planning Permission can Commence.</p> <p>Both CEMPs have to include:</p> <ol style="list-style-type: none"> <li>1. the measures set out in the Draft Construction Environmental Management Plans submitted in support of the Applications;</li> <li>2. the measures listed in Annex 1 to the RE Conditions and Annex 1 to the TB Conditions, which contain a specific section on site roads and haulage roads; and</li> <li>3. the measures listed in Condition 3 (RE) and Condition 4</li> </ol>

	(TB).
<b>Operation</b>	
<b>S106 obligation</b>	<b>Travel Plan</b>
<b>Paragraph Schedule 1</b>	<b>3,</b>
	<p>A Travel Plan has already been submitted to the LPA as part of the Applications. This Travel Plan will be updated prior to the Runway Extension coming into Operation when a Runway Extension Updated Travel Plan is to be submitted to the LPA for approval. The Airport Operator shall not Operate the Runway Extension unless and until the Runway Extension Updated Travel Plan has been approved.</p> <p>The Runway Extension Updated Travel Plan is to be implemented and complied with until a Terminal Building Updated Travel Plan has been implemented. The Terminal Building Updated Travel Plan must be submitted, approved and implemented prior to the Terminal Building coming into Operation. The Airport Operator is to implement and comply with the Terminal Building Updated Travel Plan throughout the life of both the Runway Extension and the Terminal Building.</p> <p>Within three months of the LPA approving the Runway Extension Updated Travel Plan, the Airport Operator shall appoint a transport co-ordinator, the terms of reference for the transport co-ordinator is included in the S106.</p> <p>Within six months of the Runway Extension coming into Operation, the Airport Operator will designate a suitable person to monitor the Runway Extension Updated Travel Plan and, when applicable, the Terminal Building Updated Travel Plan.</p> <p>A Travel Plan Monitoring Report, progress reports on meeting the targets in the Runway Extension Updated Travel Plan and the Terminal Building Updated Travel Plan and details of, if required, any remedial measures proposed to improve such progress are to be submitted to the LPA and Kent County Council on the first anniversary of the date that the Runway Extension came into Operation and thereafter annually until ten years following the date on which the Runway Extension came into Operation except that if at the ten year anniversary the throughput through the Airport is at 300,000ppa or more the ten year period will be extended for five years following the date on which the throughput through the Airport reached 300,000ppa.</p> <p>In the event that at the tenth year anniversary of the Runway Extension coming into Operation the throughput through the Airport is below 300,000ppa, the provisions relating to the Travel Plan Monitoring Report will be re-activated for a period of five years following the date that the ppa throughput through the Airport exceeds 300,000.</p>
<b>S106 obligation</b>	<b>Bus Shelter Contribution</b>
<b>Paragraph Schedule 1</b>	<b>3,</b>
	<p>Prior to Operation of the Terminal Building, the Airport Operator is to pay to the LPA £10,750.00 towards the costs of erecting and maintaining two new bus shelters on the B2075 (the Romney Road).</p>

		<p>The purpose of this contribution is to encourage non-car modes of transport to the Airport, particularly amongst employees and thereby assist in the sustainability of the development.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 4, Schedule 1</b></p>	<p><b>Travel Plan Steering Group (TPSG)</b></p>	<p>The Airport Operator will, at its sole expense, establish the TPSG no later than six months prior to the Runway Extension coming into Operation. The TPSG will comprise representatives from the Airport Operator, the LPA and Kent County Council.</p> <p>The TPSG will meet at least quarterly every year following the Runway Extension coming into Operation for 10 years except that if at the ten year anniversary the throughput through the Airport is at 300,000ppa or more the existence of the TPSG will be extended so that it comes to an end five years following the date on which the throughput through the Airport reached 300,000ppa.</p> <p>In the event that the TPSG comes to end before the throughput through the Airport reaches 300,000ppa, the provisions relating to the TPSG will be re-activated for a period of five years following the date that the ppa throughput through the Airport exceeds 300,000.</p> <p>The purpose of the TPSG is to:</p> <ol style="list-style-type: none"> <li>1. consider the draft Runway Extension Updated Travel Plan prepared by the Airport Operator;</li> <li>2. consider the draft Terminal Building Updated Travel Plan prepared by the Transport Co-ordinator;</li> <li>3. assist the Transport Co-ordinator with the operation of the Runway Extension Updated Travel Plan and the Terminal Building Updated Travel Plan;</li> <li>4. assist with the monitoring of the Runway Extension Updated Travel Plan and the Terminal Building Updated Travel Plan;</li> <li>5. review and approve any changes to the Runway Extension Updated Travel Plan and the Terminal Building Updated Travel Plan proposed by the Travel Plan Monitoring Report.</li> </ol>
<p><b>S106 obligation</b></p> <p><b>Paragraph 5, Schedule 1</b></p>	<p><b>Parking Management Scheme</b></p>	<p>Prior to the Runway Extension coming into Operation, the Airport Operator is to submit to the LPA for approval the Runway Extension Parking Management Scheme. The heads of terms are identified in the S106 and include, for example, the amounts of any car parking charges for the car parks.</p> <p>Prior to the Terminal Building coming into Operation, the Airport Operator is to submit the Terminal Building Parking Management Scheme to the LPA for approval. The heads of terms are again identified in the S106.</p> <p>The Airport Operator is not to Operate the Runway Extension unless and until the LPA has approved the Runway Extension Parking Management Scheme. The Airport Operator is not to</p>

	<p>bring into use any of the 287 car parking spaces to be provided in relation to the operation of the Airport following the Runway Extension coming into Operation unless the Runway Extension Parking Management Scheme has been implemented.</p> <p>The Airport Operator is not to Operate the Terminal Building unless and until the LPA has approved the Terminal Building Parking Management Scheme. The Airport Operator is not to bring into use any of the 352 further car parking spaces to be provided in relation to the operation of the Airport following the Terminal Building coming into Operation unless the Terminal Building Parking Management Scheme has been implemented.</p> <p>The Runway Extension Parking Management Scheme is to be implemented and complied with until the Terminal Building Parking Management Scheme has been implemented. Once the Terminal Building Parking Management Scheme has been approved and implemented, the Runway Extension Parking Management Scheme will fall away, meaning that there will be one parking management scheme covering the Airport (the Terminal Building Parking Management Scheme). Once implemented, the Airport Operator is to implement and comply with the Terminal Building Parking Management Scheme throughout the life of both the Runway Extension and the Terminal Building.</p> <p>Within three months of implementation of the Runway Extension Parking Management Scheme, the Airport Operator shall designate a car park monitor to monitor the Scheme and when applicable the Terminal Building Parking Management Scheme.</p> <p>A Parking Management Monitoring Report is to be submitted to the LPA and Kent County Council on the first anniversary of the date that the Runway Extension came into Operation and thereafter annually until ten years following the date on which the Runway Extension came into Operation except that if at the ten year anniversary the throughput through the Airport is at 300,000ppa or more the ten year period will be extended for five years following the date on which the throughput through the Airport reached 300,000ppa.</p> <p>In the event that at the tenth year anniversary of the Runway Extension coming into Operation the throughput through the Airport is below 300,000ppa, the provisions relating to the Parking Management Monitoring Report will be re-activated for a period of five years following the date that the ppa throughput through the Airport exceeds 300,000.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 6, Schedule 1</b></p>	<p><b>Car Sharing Scheme</b></p> <p>The Airport Operator will not Operate the Runway Extension unless the Car Sharing Scheme has been established. This will be accessible to all employees working at the Airport and will be accessible through the Airport's website. The Transport Co-ordinator will actively promote the Scheme.</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 7,</b></p>	<p><b>Shuttle Bus</b></p> <p>Following the Runway Extension coming into Operation and before the Airport reaches a throughput of 30,000 passengers</p>



<p><b>Schedule 1</b></p>	<p>per annum, the Airport Operator is to submit to the LPA for approval a scheme for the Shuttle Bus Service between the Airport and Ashford International Train Station. The heads of terms for this scheme are set out in the S106, which must include a date for implementation of the Shuttle Bus Service (which is to be before a throughput of 30,000 passengers per annum is reached) and any pricing framework.</p> <p>The Airport Operator is to comply with the approved scheme throughout the life of the Runway Extension and the Terminal Building.</p> <p>Following the establishment of the Shuttle Bus Service, the Airport Operator is to submit quarterly patronage figures to the LPA and may submit to the LPA for approval details of a revised scheme for the Shuttle Bus Service (such details must be accompanied by reasons for revised the scheme).</p>
<p><b>S106 obligation</b></p> <p><b>Paragraph 8, Schedule 1</b></p>	<p><b>Highway Works to the Entrance of the Airport</b></p> <p>Upon the Airport reaching 30,000 passengers per annum, the Airport Operator shall carry out an Access Monitoring Survey to assess the road traffic safety conditions at the junction of the B2075 and the Airport access and thereafter the Airport Operator shall repeat the Survey on the date specified in the Survey (no more frequently than every 18 months).</p> <p>Prior to carrying out the first Access Monitoring Survey, the Airport Operator shall submit to the LPA for approval, the identity of the person(s) to be appointed to carry out the Survey together with the proposed methodology.</p> <p>The results of each Survey are to be submitted to the LPA together with details of any recommended necessary remedial measures to alleviate and/or improve the safety of the junction. Subject to the Airport Operator securing all necessary Requisite Consents, the Airport Operator will implement the remedial measures agreed between the Airport Operator and the LPA.</p> <p><b>The Camber Road (C24)</b></p> <p>Prior to the Runway Extension coming into Operation, the Airport Operator shall carry out automatic traffic counts on the C24 for one week in a non-holiday month and for one week in a holiday month. The results shall be submitted to the LPA and East Sussex County Council.</p> <p>The automatic traffic counts shall be repeated upon the Airport reaching a throughput of 30,000 ppa. If these results show an increase in the average daily traffic flow compared with the first set of traffic results in excess of 5%, the LPA may (should the increase be linked to the Airport) issue a written request to the Airport Operator for a contribution (maximum contribution being £25,000.00) towards the cost of traffic management measures in Camber.</p>
<p><b>Condition 23 (RE)</b></p>	<p><b>Hammonds Corner</b></p> <p>The throughput of passengers at the Airport is not to exceed 30,000 ppa in any Calendar Year until details for improvement</p>

	works to the highway at the junction of the B2075 and A259 (known as Hammonds Corner) have been submitted to and approved in writing by the LPA, such details to also include supplemental ecology surveys to those submitted with the Applications.
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**Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)**

The transport S106 obligations and planning conditions have been discussed with the LPA, Kent County Council, the Airport Operator and, in some instances, East Sussex County Council and are in agreed form between all these parties.

Construction traffic is mitigated through the routing plans and the Construction Environmental Management Plan.

To promote sustainability and non-car modes form of transport during Operation, the Airport Operator is committing to travel plans, the creation of a Travel Plan Steering Group, the Bus Shelter Contribution, a Car Sharing Scheme and a Shuttle Bus Service.

Two updated travel plans are to be developed during the life of the proposed development. The Applications were supported by draft travel plans prepared in accordance with best practice guidance and local plan policies. Prior to the Runway Extension and also prior to the Terminal Building coming into Operation, the updated travel plans will be submitted to the LPA for approval.

The approved updated travel plans will be subject to review in order to monitor progress towards the targets set out in the approved updated travel plans. The Travel Plan Steering Group will assist in the monitoring and management of the updated travel plans and seek to lessen the reliance by passengers and staff on travelling to and from the Airport by private car. A transport co-ordinator will ensure the travel plans are implemented and that the performance of measures is monitored. As mentioned, express provisions are included in the S106 to encourage non-car modes form of transport, including the Shuttle Bus Service, the Car Sharing Scheme and a contribution towards the replacement and maintenance of two bus shelters on the B2075 (the Romney Road).

Further, specific remedial measures are included separately in the S106, for example measures relating to the Camber Road and monitoring of the car parking.

The improvements to the Airport access road are not related to the level of passengers as it has been shown that there is sufficient capacity at the existing entrance to accommodate even the highest level of traffic at 500,00 passengers per annum. The proposed improvements are related to safety.

Hammonds Corner will be the subject of its own planning application and, if required by the LPA, section 106 and/or section 278 agreements. The LPA is fully protected through the restriction on passengers per annum throughput in condition 23 of the RE Conditions.

In terms of CIL Regulation 122, all transport S106 obligations have been discussed with the LPA and Kent County Council (and in some instances East Sussex County Council) and it is agreed between the LPA and the Airport Operator that the transport S106 obligations are necessary, directly related to the Runway Extension and the Terminal Building (through the imposition of the appropriate triggers) and are fairly and reasonably related in scale and kind to the development.

Construction	
<p><b>S106 Obligation</b></p> <p><b>Paragraph 17, Schedule 1</b></p>	<p>Six months prior to the Commencement of the Terminal Building, the Airport Operator is to submit the Phase 1 Jobs and Business Strategy to the LPA for approval. This strategy is to set out initiatives to provide education and/or training opportunities and/or apprenticeships and/or employment advice and/or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in the construction of the Terminal Building.</p> <p>The Airport Operator is to work with the LPA and Partner Organisations to develop strategies to improve training and employment opportunities and initiatives for the Shepway District Council administrative area in jobs related to the Airport.</p> <p>The Airport Operator is to use reasonable endeavours to ensure contractors and consultants working at the Airport assist in the implementation of the Strategy.</p> <p>The Airport Operator shall, and shall use reasonable endeavours to ensure contractors and consultants working at the Airport also do so, provide the Partner Organisations with the following:-</p> <ol style="list-style-type: none"> <li>1. a nominated officer who will be the key contact with whom the Partner Organisations' staff can liaise on training and employment opportunities;</li> <li>2. details of initial, future and ongoing skills, needs and expected job and apprenticeship vacancies at the Airport; and</li> <li>3. interview feedback following interviews with any people put forward by the Partner Organisations so that staff can address any skills/experience shortages that have been identified.</li> </ol>
Operation	
<p><b>S106 Obligation</b></p> <p><b>Paragraph 17, Schedule 1</b></p>	<p>The Airport Operator is to submit:</p> <ol style="list-style-type: none"> <li>1. the Runway Extension Jobs and Business Strategy to the LPA for approval prior to the Runway Extension coming into Operation. This is a strategy which sets out initiatives to provide training opportunities and/or apprenticeships and/or employment advice or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in jobs relating to the Airport expanding up to 300,000ppa</li> <li>2. the Phase 2 Jobs and Business Strategy to the LPA for approval on Occupation of the Terminal Building. This is a strategy which sets out initiatives to provide education and/or training opportunities and/or apprenticeships and/or employment advice and/or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in jobs</li> </ol>

	<p>relating to the Airport expanding up to 500,000ppa.</p> <p>The Airport Operator is to work with the LPA and Partner Organisations to develop strategies to improve training and employment opportunities and initiatives for the Shepway District Council administrative area in jobs related to the Airport.</p> <p>The Airport Operator is to use reasonable endeavours to ensure contractors, airline operators, airport support operators, retail outlets and consultants working at the Airport assist in the implementation of the Strategies.</p> <p>The Airport Operator shall, and shall use reasonable endeavours to ensure contractors, airline operators, airport support operators, retail outlets and consultants working at the Airport also do so and to provide the Partner Organisations with the following:-</p> <ol style="list-style-type: none"> <li>1. a nominated officer who will be the key contact with whom the Partner Organisations' staff can liaise on training and employment opportunities;</li> <li>2. details of initial, future and ongoing skills, needs and expected job and apprenticeship vacancies at the Airport; and</li> <li>3. interview feedback following interviews with any people put forward by the Partner Organisations so that staff can address any skills/experience shortages that have been identified.</li> </ol>
<p><b>Comment (including conformity with CIL Regulation 122 in respect of the S106 obligations)</b></p>	
<p>The employment S106 obligations will ensure that the local residents and business will benefit from the Runway Extension and the Terminal Building.</p> <p>In terms of CIL Regulation 122, all employment S106 obligations have been discussed with the LPA and it is agreed between the LPA and the Airport Operator that the employment S106 obligations are necessary, directly related to the Runway Extension and the Terminal Building (through the imposition of the appropriate triggers) and are fairly and reasonably related in scale and kind to the development.</p>	

**6. OTHER KEY OPERATIONAL RESTRICTIONS**

**6.1 Passenger numbers**

- 6.1.1 Condition 19 (RE): passenger numbers shall not exceed 300,000 per annum, in respect of the use of the proposed runway extension; and
- 6.1.2 Condition 19 (TB): passenger numbers shall not exceed 500,000 per annum in respect of the use of the new terminal building.

**6.2 Air Show**

- 6.2.1 Condition 20 (RE): There is to be only one Air Show lasting no longer than three days in any Calendar Year.

- 6.2.2 Condition 20 (TB)<sup>7</sup>: There is to be only one Air Show lasting no longer than three days in any Calendar Year.

### 6.3 Nuclear Flask Train

- 6.3.1 Condition 26 (RE): No Aeroplane or other aircraft is to be permitted to land on Runway 21 or Runway 03 or depart Runway 21 whenever a train is in transit between the nuclear flask loading bay at Halfway Bush and Lydd Town Station.
- 6.3.2 Condition 25 (TB)<sup>8</sup>: No Aeroplane or other aircraft is to be permitted to land on Runway 21 or Runway 03 or depart Runway 21 whenever a train is in transit between the nuclear flask loading bay at Halfway Bush and Lydd Town Station.

### 6.4 Airport Consultative Committee (S106 obligation, Paragraph 23, Schedule 1)

- 6.4.1 An Airport Consultative Committee will be formed prior to the Runway Extension coming into Operation and consist of each of the LPA, Kent County Council, Natural England, the Environment Agency, the Royal Society for the Protection of Birds, CPRE Protect Kent and LAAG.
- 6.4.2 The Airport Consultative Committee will meet at least every 6 months to consider, review and comment on usual business and:-
- (a) the annual Travel Plan Monitoring Report;
  - (b) the annual Car Park Management Monitoring Report;
  - (c) the Access Monitoring Survey;
  - (d) the three monthly reports to the LPA; and
  - (e) the monitoring report on the operation of the BCMP submitted to the LPA pursuant to the Runway Extension Planning Permission.
- 6.4.3 The purpose of this S106 obligation is to have an obligation on the Airport Operator to provide the Airport Consultative Committee with the opportunity to comment on the documents that the Airport Operator will be submitting to the LPA for approval pursuant to the S106. It is not intended as an approval process, just another means of collaborative working between all key stakeholders given the technical issues involved.
- 6.4.4 Given the nature of the Applications, it is agreed between the LPA and the Airport Operator that this obligation is necessary, directly related to the Runway Extension and the Terminal Building and is fairly and reasonably related in scale and kind to the development.

**Pinsent Masons LLP (on behalf of London Ashford Airport Limited)**

**Ashfords LLP (on behalf of Shepway District Council)**

**September 2011**

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<sup>7</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission

<sup>8</sup> Should the Inspector consider it necessary to include on the Terminal Building Planning Permission