

BLACKBUSHE AIRPORT EXCHANGE LAND REPORT

NP12354
Blackbushe Airport
Exchange
FINAL
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1 INTRODUCTION

- 1.1 Blackbushe Airport (the “Airport”) comprises land that currently forms part of Yateley Common (Common Land Unit (CL 24)). This report contains information in support of the Section 16 Application to deregister approximately 35.3 acres (14.285 ha) of the common within the area of the operational airport and to provide approximately 35.3 acres (14.285 ha) of Replacement Land, in exchange at Cottage Farm situated approximately 2km to the east of the Airport. The report contains the following sections:
- Section 2 of this report identifies the extant interests of persons having rights in relation to, or occupying Yateley Common (Common Land Unit CL 24).
 - Section 3 describes the existing characteristics of both the Release Land and the Replacement Land.
 - Section 4 describes the works proposed to the Replacement Land prior to the release of the land from Yateley Common.
 - Section 5 describes the early consultation that has been undertaken to inform the development of the Section 16 Application.
 - Section 6 of the report provides an analysis of this Section 16 Application in relation to the criteria set out in the Commons Act 2006.
- 1.2 The land at Blackbushe Airport is owned by Falcon Propco4 Ltd, and the airport business is operated by Blackbushe Airport Ltd. Both companies are owned by Blinkbushe Ltd. Sir Peter Ogden is the majority shareholder of Blinkbushe Ltd with 87.5% ownership. The Release Land forms part of the land owned by Falcon Propco4 Ltd.
- 1.3 The land at Cottage Farm, (the Replacement Land) is owned by Cottage Farm Holding Ltd, of which Sir Peter Ogden maintains 100% ownership. It includes a property, stables, barns and livery yard. The Replacement Land comprises most of the land owned by Cottage Farm Holding Ltd.

2 THE INTERESTS OF PERSONS HAVING RIGHTS IN RELATION TO, OR OCCUPYING CL 24.

- 2.1 Blackbushe Airport contains land that forms part of Yateley Common, which is common land, subject to common rights, both matters having been registered under the Commons Registration Act 1965 (“the 1965 Act”). The Commons Registration Authority is Hampshire County Council (“HCC”). Provisional registration was made by HCC on 20 April 1970. The registration was considered by a Commons Commissioner and confirmed by his decision on 26 March 1975. A High Court appeal against registration of the rights failed: *Re Yateley Common, Hampshire* [1977] 1 All ER 505.
- 2.2 Yateley Common comprises approximately 1,218 acres (492.7ha) and Figure 1 shows the location and extent of Yateley Common. Figure 1 also shows the proposed Release Land edged red and the proposed Replacement Land edged green.
- 2.3 Notwithstanding the registration as common land, common rights are not exercised over any part of the Airport site falling within the area that is licensed by the Civil Aviation Authority (Licence Number P693 contained in Appendix A) to be used as an Aerodrome. Public access to the active runway and other airside facilities is restricted, but public access is not generally restricted within the landside part of the Airport during operational hours.

Site History

- 2.4 Blackbushe Airport’s history dates back to the 1940’s. The existing Airport together with a wider area of land were requisitioned by the government for use as an RAF airfield during World War Two (“WW2”), known as Hartford Bridge. Following the end of WW2, Hartford Bridge continued to be operated as an airport, but became known as Blackbushe Airport from 1947. It remained active until it was de-requisitioned in 1960. Part of the airfield land which was owned by Hampshire County Council reverted back to use as common land but the remainder, which was located on privately owned land, continued to be used as a civil airport. The size of Blackbushe Airport has reduced over the years but the area currently used as a civil aerodrome is shown on the CAA licence plan contained in Appendix A. The current terminal building, apron, runway, taxiways and other hard standing areas are all that remain from the government era.
- 2.5 Historical ordnance mapping shows buildings located on the land since at least 1961 This is supported by the Commons Commissioner’s decision in 1975 (Appendix B) which notes that the Blackbushe part of the common was being used as a civil airport at the time of the registration and that there was a terminal building, club house, firefighting equipment shed and fuel store on the land subject to the registration. There is also reference to a runway and fencing around the land. The club house building (which is now used as the Airport café) was erected by Air Vice-Marshal Bennett in the 1960’s.
- 2.6 In the mid-1990s, the terminal building was refurbished, the tower was replaced with a modern structure, and the car park was also resurfaced.
- 2.7 A copy of the common land registration documentation for CL 24 obtained from Hampshire County Council in March 2023 is attached at Appendix B. Plans showing the boundary of CL 24 are also included in Appendix B, but a separate Figure showing the entire CL 24 unit is also attached as Figure 1.

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- 2.8 There are 23 rights of common entries within the register of common for CL24. The rights recorded extend across the whole of the land within the register unit and include the following:
- Grazing rights for cattle, sheep, ponies, horses, pigs, chickens, geese, goats, donkeys;
 - Cutting and taking turf;
 - Cutting and taking peat;
 - Cutting and taking sapling trees, bracken, heather, gorse, deadwood; and
 - Digging and taking gravel and sand
- 2.9 It is understood that, whilst grazing rights are not being exercised on the common, wood is collected from the area of the common that falls outside land used as an Aerodrome (Appendix A) by a number of individuals who may be commoners or members of the public.

3 COMMON LAND BASELINE

Introduction

Release Land – Blackbushe Airport – Location and Land Use

- 3.1 The Release Land comprises 35.3 acres (14.285ha) of land within the area of the Airport which forms part of an area of common land known as Yateley Common CL 24. The total area of CL 24 is approximately 1218 acres or 492.7 ha. The area of CL 24 is shown on Figure 1.
- 3.2 The Release Land is located in an area that lies adjacent to the southern boundary of the Airport. It includes grassland, the woodland boundary with the A30, together with some of the existing paved taxiways and aircraft parking areas. Included within the boundary are the buildings and structures, such as light aircraft poly-hangars, small cabins and temporary buildings, and the Airport fire station.
- 3.3 Figure 2 shows the area of the Release Land with the centre of the area at approximately GR SU 8045 5876. The majority of this land, approximately 32.9 acres (13.328ha), falls into the airside part of the Airport where operational regulations control the use of the land and access to the area. The remaining area, approximately 2.4 acres (0.957ha) is in the landside part of the Airport which includes the parking area and café that can be accessed by members of the public. Figure 3 shows the areas of Release Land within the landside and airside areas of the Airport.

The Replacement Land – Cottage Farm – Location and Land Use

- 3.4 It is proposed that an area of agricultural grassland located approximately 2km to the east of the Release Land which is currently used for horse grazing and comprises approximately 35.3 acres (14.285ha) of land, would be offered in exchange for the release land being deregistered. The location of the proposed Replacement Land is shown on Figure 4 and the centre of the area is at approximately GR SU 8274 5934.
- 3.5 The Replacement Land is directly adjacent to Yateley Common CL 24 for most of its boundary on the north, for the entirety of the western side, and along parts of the southern and eastern boundaries. This can be seen on Figure 4 where the Replacement Land is edged in bright green, and Yateley Common CL 24 is shaded dark green.
- 3.6 There is a section of the southern boundary which is adjacent to a parcel of private land owned by Hampshire County Council. This area is currently unfenced and has no distinguishing features to identify that it is not part of Yateley Common CL24.
- 3.7 The Replacement Land is fenced around its perimeter, in many places with two or more layers of fencing. An outer layer of fencing exists which over time has become redundant and has been partially consumed by the mature trees and bushes around the perimeter. Newer fencing has subsequently been erected within this boundary to ensure the safety of the grazing horses.
- 3.8 The measurements provided on Figure 4 of approximately 35.3 acres Replacement Land are based on the location of the inner fence line, which likely means that there is an area around the perimeter of the Replacement Land in addition to the 35.3 acres which would also become available to the public. However, this additional area has not been quantified and is not included in the assessment of the Replacement Land as part of the Section 16 Application.
- 3.9 The Replacement Land is also sub-divided into 4 paddocks by internal fencing. These boundaries between the paddocks as shown on Figure 4. The Replacement Land is currently used for horse grazing.

Public Rights of Access - Release Land

- 3.10 The Release Land is not subject to public rights of access under either s193 of the Law of Property Act 1925 (the "1925 Act") or the Countryside and Rights of Way Act 2000 (the "CRoW Act").
- 3.11 Whilst parts of Yateley Common (including land adjacent to the Replacement Land) are subject to the provisions of section 193 of the Law of Property Act 1925 (the "1925 Act") pursuant to a revocable deed made on 5 May 1927 by the Ecclesiastical Commissioners for England as Lords of the Manor and Hundred of Crondall (the "1927 Deed"), the Release Land is not subject to that deed.
- Whilst the CRoW Act makes provision for public access to the countryside by designating certain land (including common land not already subject to rights of public access under other provisions such as section 193 of the 1925 Act) as 'access land', the Release Land is excepted land pursuant to section 1 and Paragraph 7 of Part 1 of Schedule 1 of the CRoW Act. Paragraph 7 excludes land used for the purposes of an aerodrome.
- 3.12 Blackbushe Airport is a licensed aerodrome and the Release Land falls within the licensed area as shown by Licence Number P693 contained in Appendix A. As part of a licensed aerodrome, the Release Land is subject to strict regulations under the Air Navigation Order (ANO) 2016 and the Civil Aviation Act 1982 including the following:
- Article 212 of the ANO 2016 requires a licence holder to maintain and adhere to its aerodrome manual which must include the information specified in Schedule 12 including *'procedures for the control of access, vehicles and work in relation to the aerodrome manoeuvring area and apron'*;
 - Article 212 of the ANO 2016 also requires a licence holder to *'take all reasonable steps to secure that the aerodrome and the airspace within which its visual traffic pattern is normally contained are safe at all times for use by aircraft'*;
 - Article 240 of the ANO 2016 states that *"a person must not recklessly or negligently act in a manner likely to endanger aircraft, or any person in an aircraft"*; and
 - s39 of the Civil Aviation Act 1982 which makes trespass on a licensed aerodrome a criminal offence.
- 3.13 It is not therefore possible for members of the public to freely access the Release Land as it falls within the area of the licenced aerodrome.
- 3.14 Whilst access can be gained by members of the public to the landside areas of the Airport during the normal opening hours between 07:00 and 18:00, seven days a week, with the café open between 08:00 and 16:00 hours seven days a week, access within airside areas (shown on Figure 3) is restricted at all times for safety reasons due to the operational regulations that control the use of the Airport as set out above.
- 3.15 There are existing public rights of way that connect to the Airport as shown on Figure 5.
- 3.16 There is one public right of way (PRoW), a bridleway, which passes through the northern edge of the Release Land (the Welsh Drive (Number 260/16/1)). It is not maintainable at the public expense. The bridleway then crosses the main runway of the Airport before passing into the British Car Auctions (BCA) site to the north west of the Airport. Blackbushe Airport accommodates the public who wish to walk the route and does cease activity across the airfield to facilitate this use, when requested. Such a request is rare however, especially since the BCA section of the route is obstructed, and walkers cannot pass through it.

¹ Paragraph 6 of Schedule 12, Air Navigation Order 2016/765

Public Rights of Access – Replacement Land

- 3.17 The Replacement Land is not currently common land, open space or subject to a right of public access pursuant to the Countryside and Rights of Way Act 2000 or neighbourhood rights under any other legislation. The area is also not currently used by the public for recreation. There are three sections of bridleways that run immediately adjacent to the northern edge (Nos 260/20b/3 and 260/20b/4) and eastern corner (Number 260/30/1) of the Replacement Land and these connect into an extensive network of PRow that are located in close proximity to the Replacement Land and connect well to it, as shown on Figure 6.
- 3.18 It is proposed that section 193 of the 1925 Act should apply to the Replacement Land in line with surrounding common land which is subject to the 1927 Deed. As such, Cottage Farm Holdings Ltd has submitted with the Application a draft Deed under section 193 of the 1925 Act to provide the public with a right of access over the Replacement Land. The Deed is drafted to be contingent upon the granting of a section 17 Order pursuant to this Application (providing it stands extant after the 3-month judicial review period or at the exhaustion of any such proceedings) and the completion of works to enable public access to the Replacement Land (which are considered in paragraph 3.19 below). Any such section 17 Order could also include recognition of these public rights of access and direct the Commons Registration Authority to note them on the land section of the Register. A draft s17 Order which includes proposed drafting to this effect has therefore also been included with the Application.
- 3.19 It is proposed that the fencing around the group of fields currently used for horse grazing would be removed to enable public access on foot across the entire area of the Replacement Land. The Applicants also propose that the removal of the relevant fences can be secured via the Section 17 Order that would be made in the event this section 16 application is successful and proposed drafting is included in the draft s17 Order.
- 3.20 The Replacement Land would be contiguous with the surrounding common, along much of the boundary of the agricultural land, as shown on Figure 4.

Nature conservation interests of the Release Land

- 3.21 A search of the MAGIC website was completed to determine the statutory designated sites within 2km of the Release Land as shown on Figure 7 and described in the table below.

Table 3.1: Designated sites within 2 km of the Release Land

Site name	Type	Approx. area (ha)	Interest Features	Distance from site (km)
Statutory Sites				
Castle Bottom to Yateley and Hawley Commons	SSSI	922.74	This site is notified for its heathland and young conifer plantation which supports an internationally important population of Dartford Warbler and populations of two other internationally important species, Woodlark and Nightjar. The scrub/heathland supports a particularly rich invertebrate fauna including a number of nationally scarce species. It also supports a Dragonfly assemblage.	0.01
Thames Basin Heaths SPA		8309.5	The lowland heath supports important populations of Dartford Warbler, Nightjar and Woodlark.	0.01
Castle Bottom	NNR	30.82	The area supports important populations of Dartford Warbler, Nightjar and Woodlark.	0.6
West Minley Meadow	SSSI	4.45	West Minley Meadow is the best example of wet, grazed acid grassland in north-east Hampshire. Rushes <i>Juncus</i> species	0.7

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Site name	Type	Approx. area (ha)	Interest Features	Distance from site (km)
			and sedges <i>Carex</i> species predominate, with five species of the former, and eight of the latter, including the very local elongated sedge <i>Carex elongata</i> . Grasses are also well represented, with abundant bents <i>Agrostis</i> species, especially <i>A. stolonifera</i> and <i>A. canina</i> , purple moor-grass <i>Molinia caerulea</i> , Yorkshire fog <i>Holcus lanatus</i> , and quaking grass <i>Briza media</i> , in an atypical habitat. Common bent <i>Agrostis capillaris</i> and mat grass <i>Nardus stricta</i> occur on the drier parts of the meadow.	
Bramshill	SSSI	673.27	This site is notified for a series of shallow acid ponds and associated mire, which support a rich assemblage of dragonfly and damselfly, and rotationally felled conifer plantation, which provides habitat for internationally important populations of Nightjar, Woodlark and Dartford Warbler.	1.2
Foxlease and Ancells Meadows	SSSI	68.79	The range of habitats which comprise the SSSI form an ecosystem of great diversity including more than 240 plant species, including at least 17 species of sedge. Many of the plants which are present have become scarce nationally due to drainage and other agricultural improvements	1.9

Abbreviations used in Table 3.1: SAC: Special Area of Conservation; SPA: Special Protection Area; SSSI: Site of Special Scientific Interest; CWS: County Wildlife Site; NNR: National Nature Reserve; NS: Not supplied; ha: hectare.

- 3.22 The wider landscape around the Release Land is dominated by the heathland habitats of the Thames Basin Heaths Special Protection Area (SPA), the closest component of which (Castle Bottom to Yateley and Hawley Commons SSSI) is located to the south and east of the Release Land.
- 3.23 Habitat within the Release Land comprises a combination of hardstanding (forming part of the Airport infrastructure and including a variety of taxi ways and aircraft stands) and grassland (managed as per Civil Aviation Authority (CAA) guidelines CAP 772 with respect to the prevention of bird strike risk – i.e. mown to circa 4cm height to deter larger ground nesting birds and feeding wildfowl). A number of buildings are present within the Release Land including the Control Tower for the airfield, office buildings and temporary hangers for aircraft.
- 3.24 The hardstanding present on the Release Land which comprises approximately 10.26 acres (Appendix C) is of no ecological significance, lacking any features that could support receptors of ecological importance. Equally, none of the buildings located on the Release Land have any features that could support bat roosts and are not considered to be of any ecological importance.
- 3.25 The grassland areas located on the Release Land comprise a variety of different types, representing the remnant heathland and associated soils. Some areas are dominated by sparse vegetation with significant areas of bare ground; other areas support a variety of grasses with the appearance of acid grassland. Still other parcels are more heath-like, dominated by short-mown heather *Calluna vulgaris* interspersed with gorse. The management by the Airport for aircraft safety reasons precludes the reversion of the site to heathland; however, the grassland areas (both those similar to acid grassland and those with a more heathland characteristic) are considered likely to be of local ecological significance.
- 3.26 The southern boundary of the Release Land along the A30 comprises areas of dense gorse *Ulex europaeus* and bramble *Rubus fruticosus* agg. scrub along with a line of mature trees including birch *Betula pendula* and oak *Quercus* spp. This boundary forms an important wildlife link between the heathland components of the Thames Basin Heaths SPA. It could support a range of protected species, including bats and dormice. It is also considered to be of local ecological significance.

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- 3.27 Due to the active management of the site, none of the habitats were considered suitable to support interest feature bird species of the Thames Basin Heaths SPA.
- 3.28 Overall, the Release Land has features that are of local ecological importance and as such part of the area (approximately 16.6 acres) comprises a Site of Importance for Nature Conservation (SINC) including the grassland and boundary along the A30. The location of this area is shown in Appendix D.

Nature conservation interests of the Replacement Land

- 3.29 A search of the MAGIC website was completed to determine the statutory designated sites within 2km of the Replacement Land as shown on Figure 8 and described in the table below.

Table 3.2: Designated sites within 2 km of the Release Land

Site name	Type	Approx. area (ha)	Interest Features	Distance from site (km)
Statutory Sites				
Castle Bottom to Yateley and Hawley Commons	SSSI	922.74	This site is notified for its heathland and young conifer plantation which supports an internationally important population of Dartford Warbler and populations of two other internationally important species, Woodlark and Nightjar. The scrub/heathland supports a particularly rich invertebrate fauna including a number of nationally scarce species. It also supports a Dragonfly assemblage.	Adjacent
Thames Basin Heaths	SPA	8309.5	The lowland heath supports important populations of Dartford Warbler, Nightjar and Woodlark.	Adjacent
West Minley Meadow	SSSI	4.45	West Minley Meadow is the best example of wet, grazed acid grassland in north-east Hampshire. Rushes <i>Juncus</i> species and sedges <i>Carex</i> species predominate, with five species of the former, and eight of the latter, including the very local elongated sedge <i>Carex elongata</i> . Grasses are also well represented, with abundant bents <i>Agrostis</i> species, especially <i>A. stolonifera</i> and <i>A. canina</i> , purple moor-grass <i>Molinia caerulea</i> , Yorkshire fog <i>Holcus lanatus</i> , and quaking grass <i>Briza media</i> , in an atypical habitat. Common bent <i>Agrostis capillaris</i> and mat grass <i>Nardus stricta</i> occur on the drier parts of the meadow.	1.6
Foxlease and Ancells Meadows	SSSI	68.79	The range of habitats which comprise the SSSI form an ecosystem of great diversity including more than 240 plant species, including at least 17 species of sedge. Many of the plants which are present have become scarce nationally due to drainage and other agricultural improvements	1.9
Blackwater Valley	SSSI	33.92	An area of unimproved meadow, swamp and wet woodland along the Blackwater Valley.	1.7

Abbreviations used in Table 3.2: SAC: Special Area of Conservation; SPA: Special Protection Area; SSSI: Site of Special Scientific Interest; CWS: County Wildlife Site; NNR: National Nature Reserve; NS: Not supplied; ha: hectare.

- 3.30 The wider landscape around the Replacement Land is dominated by the heathland habitats of the Thames Basin Heaths Special Protection Area (SPA), the closest component of which is Yateley Common, part of the Castle Bottom to Yateley and Hawley Commons SSSI. This is directly adjacent to the boundary of the Replacement Land and almost completely surrounds it (Figure 8).

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- 3.31 The Replacement Land comprises a series of horse-grazed fields that appear to have been sown for pasture. At the time of the site visit, these had a very short sward height and were dominated by perennial rye-grass *Lolium perenne* with occasional herbs including yarrow *Achillea millefolium* and clover *Trifolium spp.* Some areas were heavily parched. These are not considered to be of ecological significance.
- 3.32 Outwith the Replacement Land but directly adjacent to it, the boundary of the site comprises a line of mature oak trees forming the edge of what appears to be woodland within the Thames Basin Heaths SPA. These features are considered to be of international ecological significance, given the international importance of the SPA.
- 3.33 A number of individual, mature oak trees are located within the fields. Although a detailed bat roosting assessment was not completed at the time of the site visit, the trees appeared to be of a size and stature that could support roosts and are considered to be of local ecological importance.
- 3.34 The horse-grazed nature of the site and associated habitats are not considered suitable to support interest feature birds of the Thames Basin Heaths SPA.
- 3.35 Overall, the habitat within the boundary of the Replacement Land is not considered to be of ecological significance, albeit it is surrounded by land that is by virtue of its SPA designation.

The landscape of the Release Land

- 3.36 The Release Land consists of car parking, a café (both of which can be accessed by the general public) and airfield-related infrastructure such as aircraft taxing access and hangars. It is a relatively narrow strip of land which runs parallel to the A30 separated by highway grass verge and narrow tree belt. The area is mostly laid to managed short grass with a small amount of tree and scrub vegetation on the southern boundary. The area is open to the airfield runway, which runs roughly east – west, immediately and parallel to the northern boundary.
- 3.37 The Hampshire County Landscape Character Assessment classifies the Release Land as falling within the Landscape Type as 'Open Heath' as shown on Figure 9. However, the land parcel comprising the Release Land and the surrounding airfield land and car parking/storage, do not exhibit the characteristics of natural open lowland heath habitat. Rather, the soft landscape is open managed grassland.
- 3.38 The Release Land surroundings are predominantly mixed lowland heath woodland and plantation (Woodland and Plantation on Heath Landscape Type) with limited public access but does include some Public Rights of Way (mostly bridleways). Figure 10 shows the location of landscape designations and PRoW that surround the Airport. The public experience this land mainly through gaps in the tree and shrub belts that run parallel with the A30 and to a lesser extent from the café at the Airport. There is a PRoW bridleway which runs from the south east corner of the Release Land and the adjoining runway before exiting the Airport land on the boundary with the BCA site. Access to this PRoW is controlled by gated access which requires permission from Blackbushe Air Traffic Service (ATS). The photographs below illustrate the nature of the Release Land.



Photograph 1: Release Land: Publicly accessible land at Blackbushe Airport – car parking and café



Photograph 2: Release Land: Airside looking west along taxing route and aircraft storage

The landscape of the Replacement Land

- 3.39 The Replacement Land is currently dominated by horse grazing. The land is subdivided into a mixture of temporary and more permanent fencing with stock proof fencing around the perimeter. There are a few small tree groups within the Replacement Land but it is for the most part open, intensively grazed grassland. Tree belts line the boundary of the Replacement Land.
- 3.40 Generally, as shown on Figure 9, the Replacement Land setting and surroundings are mixed lowland heath woodland and plantation (Woodland and Plantation on Heath Landscape Type) with public access in the form of Common, Public Rights of Way (mostly bridleways) and permissive paths, as shown on Figure 10. Yateley Country Park and Yateley Common surround the Replacement Land on all sides and there is a well-used route around this land parcel. There is grazing pasture fields to the north of the Replacement Land and bridleway.
- 3.41 This land parcel does not have any public access across or within it. It is appreciated from adjoining publicly accessible bridleway and Yateley Country Park. There are glimpsed views into the Replacement Land from the surrounding access land and paths. The following photographs illustrate the nature of the Replacement Land.



Photograph 3: Replacement Land - Aerial view from north west corner along western boundary horse grazing with fencing and tree boundary with Yateley Common



Photograph 4: Replacement Land - View looking north from northern boundary of Replacement Land towards Cottage Farm showing land use for horse grazing



Photograph 5: Replacement Land - View looking south east from bridleway on north west corner of Replacement Land showing typical glimpsed views of the Replacement Land parcel



Photograph 6: Yateley Common / Country Park: View looking east from area close to southern boundary of the Replacement Land showing typical surrounding lowland heath landscape.

Archaeological remains and features of historic interest of the Release Land

- 3.42 The location of designated and non-designated heritage assets within and close to the Release Land are shown on Figure 11.
- 3.43 The Airport was initially established as RAF Hartford Bridge in 1942 as a typical WW2 RAF three runway flight base. It was renamed RAF Blackbushe in 1944 and was closed in 1946. The following year it was taken over by the Ministry of Civil Aviation and became Blackbushe Airport.
- 3.44 The Airport was closed again in 1960 with land and assets sold off, but reopened in 1962 under private ownership.
- 3.45 Examination has been made of the presence of designated heritage assets within the Release Land and its immediate vicinity. In accordance with policy as expressed in the National Planning Policy Framework (NPPF), a 'designated heritage asset' is defined as a World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area.
- 3.46 There are no World Heritage Sites, Protected Wreck Sites, Registered Battlefields or Conservation Areas within the Release Land and its immediate vicinity.
- 3.47 The nearest Registered Park and Garden is the Grade II registered park at Minley Manor, approximately 375 metres to the south-east. The south-east drive which forms part of the Grade I registered Bramshill Park extends to the A327 road at a point approximately 1.25 km north-west of the Release Land, whilst the Grade II registered part at Elvetham Hall is approximately 2 km to the south-west.
- 3.48 A Scheduled Monument is located just to the south of the Release Land, on the opposite side of the A30 road. This is a short (60 metre) and well-preserved section of a linear earthwork known as the Festaen Dic. It comprises a bank c. 1 metre high and 8 metres wide, with a ditch on the western side which is 2 metres wide and 1 metre deep. This feature is recorded in two charters dated AD 973-4 and it has been assumed that the word festaen (Old English = stronghold or fortification) indicates a military function, although recently it has been suggested that the name actually means 'overgrown'. The monument thus forms part of an Early Medieval estate boundary but could represent the reuse of an earlier feature. It is known that the earthwork extended further to the north and that a section c. 500 metres long was destroyed for the construction of the airport, also a possible southern extension was lost to a gravel pit.

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- 3.49 There is a Grade II listed milestone immediately south of the Release Land, on the south side of the A30 road. This bears a date of 1826 and is numbered as 34 which represents the distance (in miles) to London.
- 3.50 Data has been acquired from the Hampshire Historic Environment Record (HER) with regard to known archaeological sites within the Release Land and also within a buffer zone extending 500 metres from the boundary of the Release Land in all directions. The HER places Archaeology Alert Buffers around some sites or features of archaeological interest, with Red Buffers indicating areas of potentially significant archaeological remains, Yellow Buffers indicate areas of potentially less significant archaeological remains and Green Buffers indicate areas of potentially least significant archaeological remains. An Archaeology Alert Red Buffer has been placed around the Scheduled section of the Festaen Dic.
- 3.51 There are no HER entries within the Release Land. Features recorded on the HER and located very close to the boundary of the Release Land include possible anti-glider ditches (58297 and 59007). These are of early World War Two date, before the construction of the RAF airfield here. There are also areas of practice slit trenching (59004 and 59010) which could be of First or Second World War date, and a number of small, round banked features likely to be of Second World War date (59895).
- 3.52 A small oval enclosure recorded as a cropmark on aerial photographs (59695) also predates the construction of the airfield and is considered to be a potential early military feature. An Archaeology Alert Green Buffer has been placed around this enclosure. To the north of the Release Land are the sites of former quarries (59012 and 59025).
- 3.53 In addition to the Scheduled section of the Festaen Dic described above, there is also a small mound (27136) which probably represents spoil from the quarries in this area and a number of earthen banks which mark the parish boundary (57553 and 57554). A collection of burnt flints from the same area (67938) suggests potential prehistoric activity in the vicinity. A trackway passing through Yateley Heath Wood has been postulated to be a Roman road (54737) but this has not been proven. Further to the east a series of terraces, banks and ditches has been recorded within Yateley Heath Wood (54738), all of which remain undated.
- 3.54 Examination of early Ordnance Survey (OS) mapping shows that prior to the construction of the RAF airfield the Release Land was predominantly an area of open ground known as Hartford Bridge Flats, criss-crossed by a network of tracks (Figure 12). No evidence of the Festaen Dic is indicated on these early OS maps, suggesting that this feature was not particularly prominent (including the extant earthwork section which is now Scheduled).
- 3.55 Overall, the HER records and historic maps show very limited evidence for archaeological features to be present within the Release Land.

Archaeological remains and features of historic interest of the Replacement Land

- 3.56 The location of designated and non-designated heritage assets within and close to the Replacement Land are shown on Figure 13.
- 3.57 There are no World Heritage Sites, Protected Wreck Sites or Registered Battlefields within the Replacement Land and its immediate vicinity.
- 3.58 The nearest Registered Park and Garden is the Grade II registered park at Minley Manor, approximately 1.1 km to the south and on the opposite side of the A30 road. To the north of the registered park, and approximately 450 metres south of the Replacement Land is a Scheduled Monument comprising a large, ditched bowl barrow which represents a burial monument of probable Bronze Age date. An Archaeology Alert Red Buffer has been placed around the Scheduled Monument.

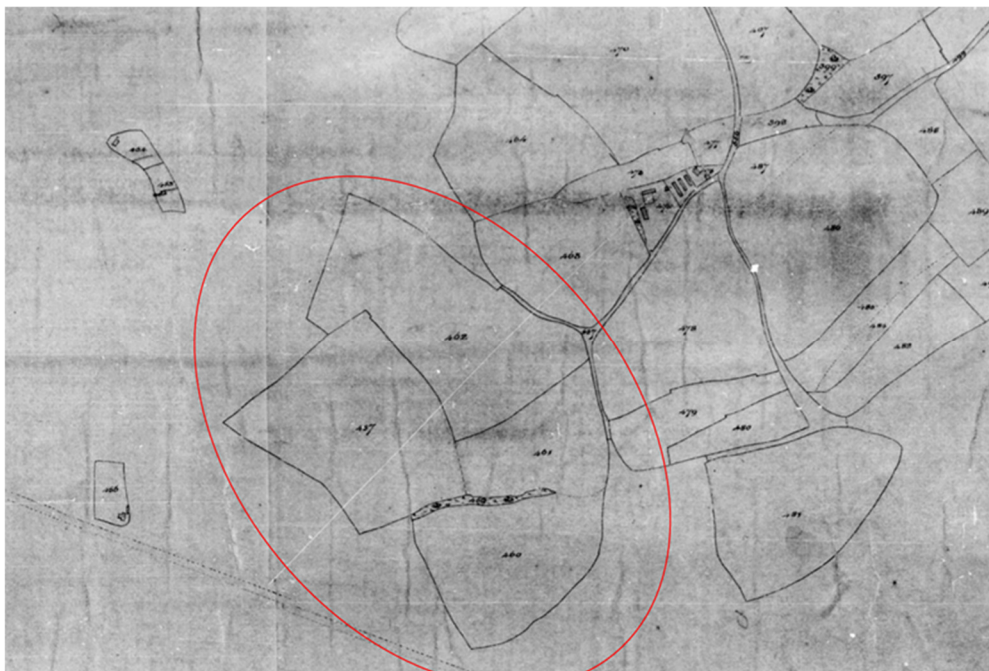
REPORT

- 3.59 To the south of the Replacement Land and on the opposite side of the A30 road is a Grade II listed milestone. This bears a date of 1826 and is numbered as 32 which represents the distance (in miles) to London. Approximately 600 metres to the north-west of the Replacement Land are two Grade II listed cottages known as The Nest and Thatched Cottage. Both of these are on the east side of Cricket Hill Lane.
- 3.60 The Cricket Hill area of Yateley has been designated as a Conservation Area, with the southern part of the designated area extending south to take in a section of Yateley Common and at its closest is approximately 150 metres west of the Replacement Land. To the north-east of the Replacement Land is a second Conservation Area which encompasses the Darby Green area of Yateley. This also extends south to take in a section of Yateley Common and at its closest is approximately 175 metres from the Replacement Land.
- 3.61 There are no archaeological sites recorded on the Hampshire HER as being within the Replacement Land. Just to the west on Yateley Common is the location of a small mound (54877) which was examined in 2003 and which may have been the remains of a small round barrow (a burial monument of probable Bronze Age date). Further to the south-west an archaeological investigation found evidence of a Mesolithic flint-working site (54876). A series of small mounds to the east of here are more likely to be of modern military origin (59696), as might a small curvilinear banked earthwork feature in the same area (59697).
- 3.62 To the south of the Replacement Land is a cluster of small extraction pits of probable late 19th or early 20th century date (59256), also three parallel elongated mounds that may also be associated with extraction or possibly 20th century military activity (59255). In the vicinity of the Scheduled bowl barrow is a second possible round barrow (34504) around which an Archaeology Alert Yellow Buffer has been placed. Just to the east are two potential ring ditches that may also represent the remains of round barrows (37381 and 50094). An Archaeology Alert Green Buffer has been placed around one of these. To the west of here are elongated mounds and other features representing anti-glider obstacles dating to the early part of the Second World War (42731 and 58999).
- 3.63 Artefacts recovered from locations to the east of the Replacement Land include worked flints of Mesolithic date (28615 and 35397) and of more general prehistoric date (34477). Further examples of prehistoric worked flint have been found at locations to the south-west of the Replacement Land (35398; 35399; 35400) and also to the west and north-west (35401; 35405; 35407; 35408; 35409; 35410; 35412). Overall, the HER records limited evidence for archaeological features to be present within the Replacement Land. There could be scatters of worked flint as recorded in areas to the south, west and north-west but these may have been compromised by the use of the land for farming.
- 3.64 Examination of early Ordnance Survey (OS) mapping shows that the Replacement Land had been enclosed from the former common by the late 19th century and that the boundaries of the existing area of farmland had been established by that time. The land on most sides remained as part of Yateley Common, with evidence for small-scale extraction of gravel at several locations (Figure 14).
- 3.65 Additional research has found that the enclosure of the land actually happened much earlier than the late 19th century as indicated by the 1894 OS map.
- 3.66 The earliest detailed map of the area is the Ordnance Survey Drawing (OSD) for Odiham which was produced in around 1806. The OSDs represent the original preliminary drawings made by the OS surveyors in preparation for the publication of the 1" to the mile 'Old Series' of maps covering much of England and parts of Wales.
- 3.67 The relevant part of the 1806 OSD is reproduced below, with a red line to show the location of the Replacement Land. The depiction of field boundaries on the OSDs is often more stylised in comparison to the accurate mapping of the later 6" and 25" maps, but the OSD clearly shows that the fields that make up the Replacement Land has clearly been enclosed by 1806.



Extract from 1806 Ordnance Survey Drawing

3.68 Examination of the 1844 Yateley Tithe Map demonstrates that this arrangement continued throughout the 19th century, with the image below showing the internal field boundaries and the common land to the north, west and south.



Extract from 1844 Tithe Map

3.69 The Tithe Apportionment identifies that the field parcels making up the Replacement Land were in arable use in 1844 and were all owned by Henry Browne Mason.

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- 3.70 Mason was a Commander in the British Navy who also owned 'Hilfield' which was the second largest house in Yateley. This had been purchased in 1834 from Browne George Rouviere, who in turn, had bought a messuage and lands at Yateley in 1819. The Hampshire Records Office holds the original Justice's certificate of qualification dating 1819 and 1835 respectively.
- 3.71 Examination of the boundaries of the Replacement Land has found that these largely comprises earthen banks, often with iron 'estate-type' fencing at the top and on the field side of the bank. In many areas there is a corresponding shallow ditch within the common. Mature vegetation on the top of the bank and immediately beyond the fencing includes substantial oak trees whose trunk sizes suggest an age of at least 200 years. This accords with the map evidence and confirms that the banks were established by the start of the 19th century and may have been originally created some time before that date.
- 3.72 The images below show the earthen boundary banks taken from the existing Common, with mature trees at the top of the bank and the iron 'estate-type' fencing just beyond the trees, marking the outer edge of the replacement land.



Photograph showing nature of earthen boundary within existing common adjacent to fenced replacement land.

Soil and agricultural characteristics of the Release Land

Geology and Soils

- 3.73 The Airport is situated on High Level Terrace Gravels, above the symbol for terrace gravel. These were formerly called the Plateau Gravels. The underlying so-called "solid" geology consists of sands of the Bagshot and Bracklesham Group which outcrop along the margins of the Airport.
- 3.74 No detailed soil map of the area has been published and so the only source of information is the relevant sheet of the 1:250,000 scale National Soil Map (Sheet 6 South East England). This shows geographic groupings of soils called Soil Associations, usually related to specific parent materials.

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Within each Association there are likely to be a number of more tightly defined soil types known as Soil Series. The commonest one gives its name to the Association. The National Soil Map is essentially an interpretation of geological maps based on information from more detailed investigations in selected areas.

- 3.75 The Airport is shown as part of a relatively large area of Association 634 SOUTHAMPTON, a collection of very stony, very acid, sandy soils formed in Plateau and River Terrace Gravels. The characteristic feature of the dominant soils of this Association is the process of podzolization whereby, over many years, iron and aluminium are transported downwards to leave a paler coloured horizon near the surface and then deposited in the subsoil in characteristic orange and/or black horizons. There may also have been the transportation of finer clayey material from the surface to lower in the profile. In their natural condition the soils are very acid and impoverished and support only semi-natural acid woodland and heathland, the organic matter from which is part of the podzolization process.
- 3.76 The area of the Airport has been subject to considerable disturbance where buildings, runways, taxiways and airfield infrastructure have been constructed and it is likely that limited areas of in situ undisturbed soils are likely to remain.

Agricultural Land Quality

- 3.77 The Airport is not in agricultural use and is designated as non-agricultural land according to the MAFF ALC on the 1:63,360 Provisional ALC Sheet 169 as shown on Figure 15.

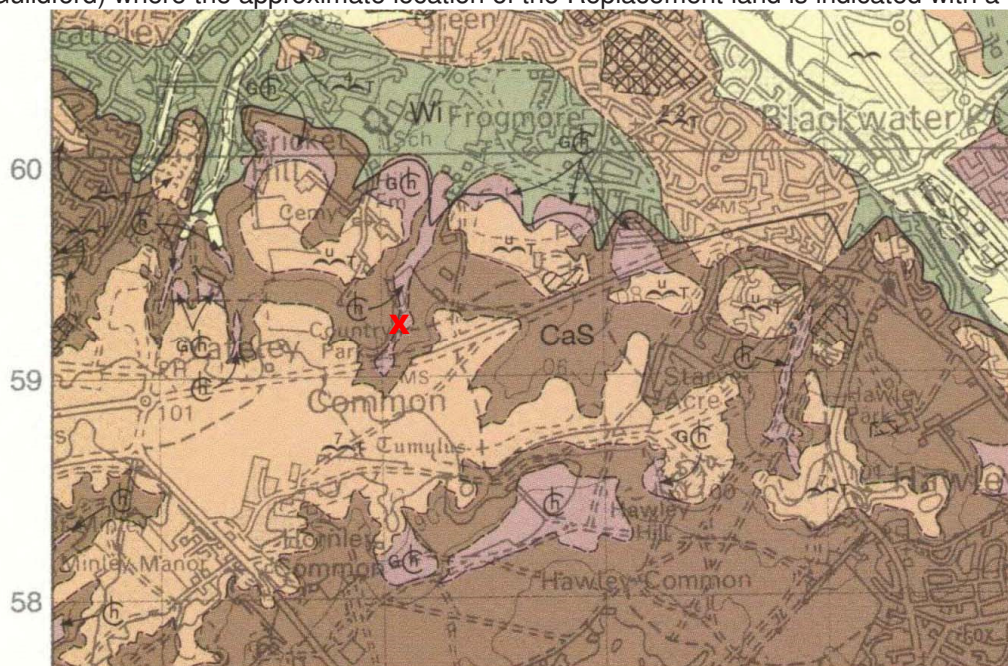
Agricultural Land Use

- 3.78 There is no agricultural land use within the Airport, which is designated as non-agricultural land.

Soil and agricultural characteristics of the Replacement Land

Geology and Soils

- 3.79 This is shown on the extract below from the published 1:50,000 scale geological map (Sheet 285 Guildford) where the approximate location of the Replacement land is indicated with a red "x".



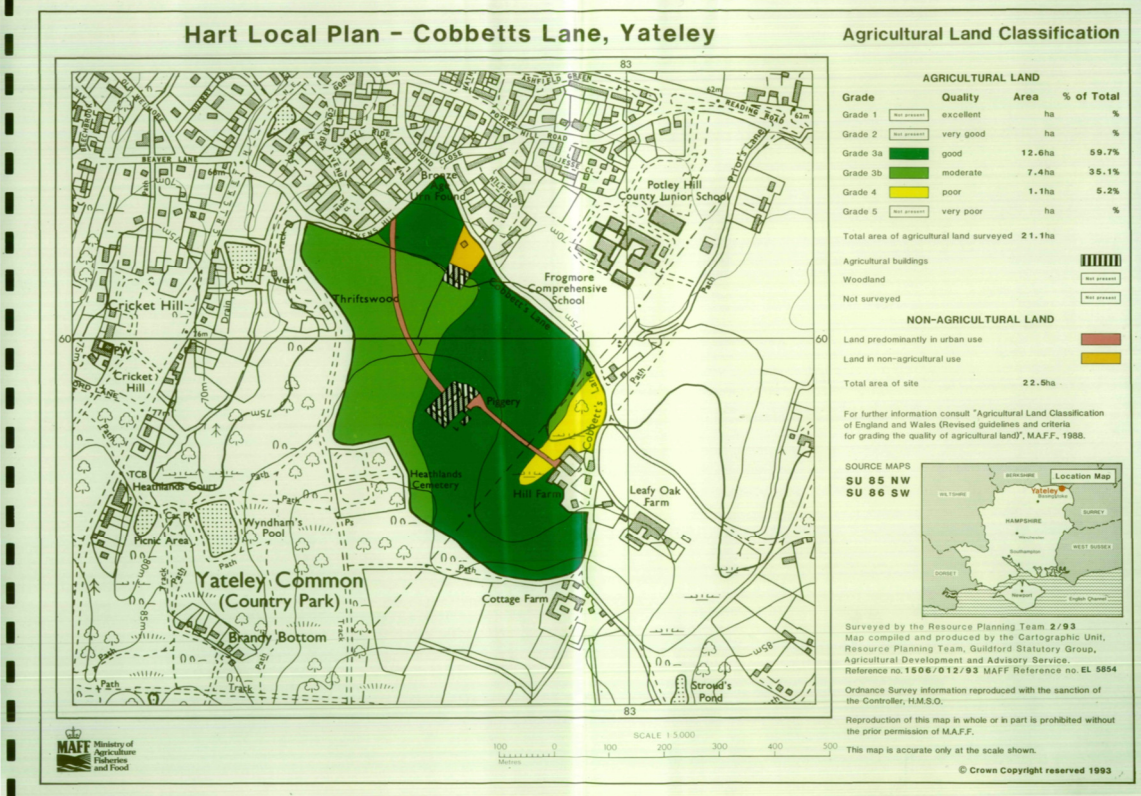
Extract from 1:50,000 British Geological Sheet 285 (Guildford)

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- 3.80 The so-called “solid” geology is the Camberley Sand Formation of the Bracklesham Group, formerly called the Bagshot Beds. This is one of several ancient sedimentary deposits often collectively referred to as the Tertiary Beds. It consists mainly of loose, pale brown to yellow sand. It is shown on the portion of the published geological map below in dark brown with the map symbol CaS and runs in a belt across the centre of the site into the south-east corner. To the north and south the sand is covered by drift deposits of River Terrace Sand and Gravel shown in paler orange-brown. Those to the south are correlated with the co-called 7th Terrace (figure 7 above the symbol for terrace gravels) while those to the north are undifferentiated (letter u above the symbol). Just off the eastern edge of the site the map shows a lavender coloured strip of so-called Head, likely also to be gravelly in this location, with the symbol consisting of interlinked C and h.
- 3.81 No detailed soil map of the area has been published and so the only source of information is the relevant sheet of the 1:250,000 scale National Soil Map (Sheet 6 South East England). This shows geographic groupings of soils called Soil Associations, usually related to specific parent materials. Within each Association there are likely to be a number of more tightly defined soil types known as Soil Series. The commonest one gives its name to the Association. The National Soil Map is essentially an interpretation of geological maps based on information from more detailed investigations in selected areas.
- 3.82 The Replacement Land is shown as part of a relatively large area of Association 634 SOUTHAMPTON, a collection of very stony, very acid, sandy soils formed in Plateau and River Terrace Gravels. The characteristic feature of the dominant soils of this Association is the process of podzolization whereby, over many years, iron and aluminium are transported downwards to leave a paler coloured horizon near the surface and then deposited in the subsoil in characteristic orange and/or black horizons. There may also have been the transportation of finer clayey material from the surface to lower in the profile. In their natural condition the soils are very acid and impoverished and support only semi-natural acid woodland and heathland, the organic matter from which is part of the podzolization process.

Agricultural Land Quality

- 3.83 The quality of agricultural land is assessed according to the Ministry of Agriculture Fisheries and Food Agricultural Land Classification System 1988, which divides land into Grades 1 – 5, with Grade 1 land being the highest quality land and Grade 5 the lowest quality land. Grade 3 land is subdivided into Subgrade 3a and 3b land.
- 3.84 The Replacement Land is identified as undifferentiated Grade 3 on the Provisional 1:63,360 scale ALC map, Sheet 169 (Aldershot) published in 1973 as shown on the Figure 15.
- 3.85 Further detailed survey work has been carried out since the provisional mapping was provided and a map of the results of a detailed ALC survey carried out by MAFF/DEFRA in 1993 using the revised system on land immediately north of the Replacement Land can be found on the MAGIC website and this is reproduced below.
- 3.86 The area of land located to the north that lies outside the boundary of Yateley Common CL24, comprises similar geological and soil characteristics to the area of the Replacement Land. It therefore comprises entirely Grade 3 land, with a mixture of Subgrade 3a and 3b land, similar to that identified on the land immediately to the north.



MAFF Detailed ALC Survey Results for Cobbetts Lane, Yateley to North of Proposed Replacement Land.

Agricultural Land Use

3.87 The Replacement Land is currently used as a series of horse keeping paddocks associated with the livery yard and outdoor school situated at Cottage Farm. The Replacement Land does not include the buildings, outdoor school or paddocks to the south and south east of the buildings. In contrast to the Release Land, the land is available for agricultural use and comprises undisturbed in situ soils.

Land and Ownership Rights in the Replacement Land and the Release Land

3.88 The land at Blackbushe Airport is owned by Falcon Propco4 Ltd, and the airport business is operated by Blackbushe Airport Ltd, which leases the Airport site from Falcon Propoco4 Ltd. Both companies are owned by Blinkbushe Ltd. Sir Peter Ogden is the majority shareholder of Blinkbushe Ltd with 87.5% ownership.

3.89 The land at Cottage Farm, (the replacement land) is owned by Cottage Farm Holding Ltd, of which Sir Peter Ogden maintains 100% ownership. It includes a property, stables, barns and a livery yard, where horse owners have a commercial agreement to be provided with stabling and paddocks where the horses can be turned out during the day. The Cottage Farm buildings are the subject of a tenancy which will continue until a successful exchange has been completed. The livery contracts are with the tenant of Cottage farm and each of these has 30 days' notice to vacate. The approximately 20 liveries currently occupying the stables were previously given notice to vacate by the previous owner of Cottage Farm, and have understood that their ongoing occupation of the stables will be limited by and subject to a successful deregistration application which will reduce the available area for grazing.

4 WORKS TO BE UNDERTAKEN TO ESTABLISH THE REPLACEMENT LAND.

4.1 The works to establish the Replacement Land following the approval of the Section 16 Application would include:

- the removal of existing fencing around the edge of the current agricultural land. Photograph 7 below shows the nature of the fencing to be removed;



Photograph 7: Replacement Land – Typical Fencing to be removed (SW Corner of Replacement Land)

- removal of internal fencing that currently separates the horse grazing paddocks. The removal of the internal fencing would not include the removal of fencing around the two telecoms masts on the southern edge of Cottage Farm land ;
- the collection of a minimum of 10 topsoil samples taken at approximately 100m across the area of the replacement land to provide baseline soil nutrient levels and pH; and
- provision of placemaker signage at locations around the periphery and at key points in the middle of the Replacement Land area. The proposed locations of these are shown on Figure 16, as discussed with Hampshire Countryside Service during preliminary consultation. The intention of these would be to assist people accessing the Replacement Land to be able to plan a route across the area that links into the surrounding PRow network and known locations in the vicinity.

4.2 The works proposed would not include any earthworks or removal of trees around the margins of the replacement land that would disturb the historic boundary features within the existing common that are described within Paragraphs 3.64 – 3.71 of this report. There are areas around the periphery of the replacement land where there are natural gaps within the surrounding vegetation within the common, as shown above and it is at these locations that the placemarkers would be placed.

4.3 Planning permission for a third telecoms mast was granted by Hart District Council on 18th August 2021 (20/02932/FUL) and so the extent of this mast compound has been excluded from the Replacement Land. In the event the mast is not constructed it is not proposed that this area be fenced or marked in any way.

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- 4.4 It is proposed that as the Replacement Land currently comprises agricultural grassland that no further cultivation or seeding works are required as this land can revert immediately for use as part of the wider common following the Section 16 exchange.
- 4.5 In view of the current nature of the Replacement Land as improved grassland heavily grazed by horses, the potential seed bank of species that may be present within the soil horizons is not currently known. There is evidence from areas surrounding the proposed Replacement Land that heathland type habitat does establish over time in areas that have previously comprised agricultural grassland. It is therefore considered that there is potential for managed regeneration of biodiversity interest to take place within the Replacement Land.
- 4.6 On this basis, it is proposed that, rather than including additional planting proposals upon the approval of the Section 16 application, that an Environmental Management Plan (EMP) should be implemented to enable the ecological and landscape interest in the area to develop in the most beneficial way, taking into account registered commons rights and the need to maintain access across the replacement land.
- 4.7 The proposed EMP is attached at Appendix E and identifies the measures which would be implemented to manage and monitor the replacement land for a period of 15 years following the approval of the Section 16 Application.
- 4.8 The management measures in the draft EMP (Appendix E) include:
- Annual surveys of the development of habitat types across the Replacement Land;
 - Analysis of soil samples across the Replacement Land to monitor nutrient depletion and pH change over time;
 - Monitoring of vegetation growth across the Replacement Land to assess the suitability of the Site for recreational access on foot;
 - Provision of monitoring information and proposals for the management of the Replacement Land for the following period to Hampshire Countryside Service and Natural England for discussion and confirmation
 - Attendance by Cottage Farm Holding Ltd at Yateley Common Management Committee meetings to review the monitoring information provided and to provide a forum for local parish councillors, those with rights of common, and the general public to ask questions and provide feedback on the management of the Replacement Land.
- 4.9 It is proposed that the implementation of the EMP would be secured through a s106 obligation pursuant to s106 of the Town and Country Planning Act 1990. A s106 obligation is a legal instrument which binds the land and may be given unilaterally to a local authority. Any breach of a s106 obligation is enforceable by the relevant local authority (usually by way of an injunction) against the original covenanting party and successors in title. In this case, the s106 obligation would be being given by the landowner (Cottage Farm Holdings Ltd) by way of a unilateral undertaking to Hampshire County Council as both the commons registration authority and a local planning authority of the area in which the Replacement Land is located. This demonstrates a commitment to implementation of the EMP measures and provides a mechanism for enforcement of those measures.

5 CONSULTATION

- 5.1 The Applicants have engaged in informal pre-application consultations with interested parties at an early stage. Blackbushe Airport has previously sought to deregister land located at the Airport pursuant to an application under Schedule 2 of the Commons Act 2006. The Schedule 2 application was granted on 10 November 2023 and confirms the deregistration under Schedule 2 of the footprint of the airport Terminal Building, and part of the Café Building. A copy of that decision is enclosed with the application for reference. Initially, parties that had been involved in the Schedule 2 deregistration application were invited to meet.
- 5.2 The Open Spaces Society (OSS) has engaged with the Applicants, and a meeting was held between OSS and Blackbushe Airport representatives on September 2022. The OSS understandably wished to reserve any views until they had seen the application in full. However, the following observations were made:
- OSS would be keen to ensure all fences are removed to enable access.
 - OSS would like to see wayfinding posts / marked paths to enable the public to navigate their way across the site.
 - Work on boundaries to make cuttings to facilitate access and connect with paths on the wider common.
 - OSS would like to see a medium to long term management plan to ensure that the land isn't left to overgrow and prevent access.
- 5.3 The Applicants have contacted Hampshire County Council's Countryside service through the HCC legal team and provided them with an early draft of the s106 unilateral undertaking and the EMP.
- 5.4 Likewise, the Applicants have contacted Mr Peter Tipton, a registered commoner, who participated in the inquiry into the Schedule 2 application, but to date he has not responded.
- 5.5 The Applicants have engaged with Adrian Collett, a Hampshire County Council Councillor, who arranged for a meeting with several local councillors on 10th November 2022. This was attended by:
- Adrian Collett - Hampshire County Councillor, Yateley East & Blackwater, member of the Yateley Common Management Committee.
 - Tim Davies - Hampshire County Councillor, Hartley Wintney & Yateley West
 - Richard Quarterman – Hart District Councillor, Yateley West
 - Nicki Paton – Hampshire Countryside Team Manager North Sites
- 5.6 Whilst there was an indication of tentative support for the proposal in principle, the participants reserved their opinions until they have seen the full application.
- 5.7 Following this meeting, a walkaround of the Replacement Land was held with the Hampshire Countryside Team Manager, Nicki Paton. During this visit, a number of points on the perimeter of the Replacement Land were identified as suitable areas in which access could be facilitated without the need to remove large amounts of trees or shrubs.
- 5.8 Prior to submitting this Section 16 application to the Planning Inspectorate, the Applicants chose to consult early with key stakeholders, including local councils, organisations, and those with registered common rights. This was an opportunity to identify any areas within the application which need amending, or need further explanation or detail, and comments provided within this pre-application consultation informed the final application submission.

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- 5.9 The parties consulted were:
- Hampshire County Council
 - Hart District Council
 - Yateley Town Council
 - Open Spaces Society
 - Natural England
 - Owners of properties with registered common rights
- 5.10 This pre-application consultation ran from 9th-31st October 2023. Documents were provided via a dedicated page on the Blackbushe Airport website. Consultees were emailed wherever possible, but for the owners of properties with common rights, a letter, a map of the Release Land and Replacement Land, as well as a copy of the Blackbushe Airport Vision were sent by post in hard copy.
- 5.11 The full list of documents provided on the Blackbushe Airport website were:
- DRAFT Section 16 Application Form
 - DRAFT Exchange Land Report
 - Figure 1 - Map of Yateley Common with Release and Replacement Land
 - Figure 2 - Release Land Plan (Blackbushe Airport)
 - Figure 3 - Release Land Plan with Airside / Landside
 - Figure 4 - Replacement Land Plan (Cottage Farm)
 - Figure 5 - Release Land Public Rights of Way
 - Figure 6 - Replacement Land Public Rights of Way
 - Figure 7 - Release Land Designated Sites
 - Figure 8 - Replacement Land Designated Sites
 - Figure 9 - Landscape Character
 - Figure 10 - Landscape Designations
 - Figure 11 - Release Land Heritage Assets
 - Figure 12 - Release Land 1894 OS Map
 - Figure 13 - Replacement Land Heritage Assets
 - Figure 14 - Replacement Land 1894 OS Map
 - Figure 15 - Provisional Agricultural Land Mapping
 - Figure 16 - Works to Replacement Land - Placemarkers
 - Figure 17 - Locations of Registered Commoners
 - Appendix A - Aerodrome Licence
 - Appendix B - Yateley Common CL24 - Register Scan
 - DRAFT Appendix C Environmental Management Plan
 - Appendix C - Figure 1 - Fence Removal Plan
 - Appendix C - Figure 2 - Works to Replacement Land - Placemarkers
 - DRAFT Unilateral Undertaking (Section 106)
 - Blackbushe Vision Document

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- 5.12 Hard Copies of the application were available for review at the Airport terminal building, but no consultees chose to do so.
- 5.13 During the pre-consultation, the Applicants held an open evening for the owners of properties with common rights, in which directors of Blackbushe Airport Limited (as representatives of the Applicants) were available to answer questions on the proposed application and longer vision for the airport. This session was attended by residents of 9 of the 26 properties, and one local councillor.



- 5.14 During the consultation period, the Applicant attended a meeting of the Yateley Common Management Committee (YCMC) at which one owner of a property with common rights attended and raised some questions regarding the application. The Applicant, and members of the YCMC answered the questions which were largely focussed on the procedure that the Section 16 application would take, rather than the merits or impacts of the application.
- 5.15 Written responses were received from:
- Hampshire County Council
 - Yateley Town Council
 - Natural England
 - Open Spaces Society
 - The owner of Moulsham House, Yateley (Commons Entry 1)
 - The owners of Follyfoot Farm (Commons Entry 12)
- 5.16 A summary of the responses raised at the open evening, as well as the actions taken is provided in Appendix F.

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5.17 The Applicants have sought to capture the feedback provided through this informal consultation by amending several aspects of the application:

- The Environmental Management Plan (Appendix E) has been amended to include commitments to the maintenance of key access ways through the Replacement Land, and ensuring reporting pursuant to the EMP is placed in the public domain.
- The Applicant has sought to ensure that s193 rights apply to the Replacement Land by undertaking to provide an irrevocable deed in the event the application is successful. Further draft text has been provided for the inspector to consider within a Section 17 order.
- Conducting research into the historical nature of the boundary at Cottage Farm (provided earlier within this report).
- Provided draft text for the inspector to consider within a Section 17 order to require the removal of fences within the Replacement Land in accordance with the proposed Section 106 Unilateral Undertaking
- Clarifications throughout all documentation where wording was unclear.

6 SECTION 16 APPLICATION – ALTERNATIVES AND RELEVANT CRITERIA

Introduction

- 6.1 In identifying the provision of exchange land to replace the area of land to be released from registration as common land as a result of this proposal, potential alternatives have been considered to determine that the best approach has been adopted in this Section 16 application in accordance with Common Land Consents Policy 2015.
- 6.2 The relevant criteria in determining the land to be offered as replacement land set out in the Commons Act 2006 have also been taken into account.
- 6.3 The consideration of alternatives and the relevant criteria are described below.

Alternatives

- 6.4 The following alternatives to deregistration of the Release Land have been considered:

- Retain the current situation.

This option would not benefit anyone with an interest in the common. It would continue to prevent improvements being made to the existing Airport and is therefore not the Landowner's preferred option. It also leaves in place the ongoing conflict between the use of the Release Land as part of a licensed aerodrome and the ability of commoners and members of the public to exercise their rights within the Release Land. On the other hand, the provision of suitable Replacement Land is beneficial to all parties. In particular, it has the benefit of enabling all rights of common to be exercised within the Replacement Land whilst enabling the landowner and the airport to make best use of the Release Land.

- Closure of the airport.

Although this would enable the rights of access and the potential to exercise other rights of common, including grazing rights, in areas that do not comprise buildings or tarmac, there is no benefit to the interests of the landowner who has no desire to close the Airport which would lead to substantial and unnecessary adverse economic impacts arising from the loss of the airport operation. Whereas the provision of suitable replacement land would not compromise the future operation of the Airport and would enable public access and all rights of common to be exercised within it.

Section 16 Criteria

The interests of persons having rights in relation to, or occupying, the release land

Area of Release and Replacement Land

- 6.5 The proposed area of Replacement Land is approximately 14.285 ha (35.30 acres). This is an area of equal size to the area of permanent loss of the Release Land 14.285 ha (35.30 acres) and there would be no loss in the total area of the CL Unit 24. Further, as noted above, it is likely the Replacement Land is slightly larger than 14.285 ha (35.3 acres) due to the presence of multiple layers of perimeter fencing.

Physical characteristics

- 6.6 The published information shows that the Release Land and Replacement Land comprise soils of the same SOUTHAMPTON (634) soil association. However, the Release Land within the Airport has been extensively disturbed through the historic development of the Airport infrastructure and it is unlikely that significant areas of in situ soil physical characteristics remain.
- 6.7 The Replacement Land comprises undisturbed in situ soil materials of Grade 3 quality according to the MAFF 1988 ALC system. The Replacement Land therefore offers a benefit in that the commoners would be able use an undisturbed area of in situ soils and agricultural quality within the Replacement Land, should they wish to exercise their rights of common within it.

Land Use

- 6.8 The Release Land currently forms part of the operational area of Blackbushe Airport. The operational regulations that apply within the Airport restrict the use of the land by the commoners to exercise rights of common and significantly limit the wider public in terms of public access. Access to the area of the licenced aerodrome for members of the public is restricted for safety reasons pursuant to the ANO 2016 and through the Civil Aviation Act 1982 s39 which makes trespass on a licensed aerodrome a criminal offence.
- 6.9 In relation to the exercise of the rights of common identified in the CL 24 common land register, the following guidance and restrictions are relevant :
- Cutting and taking sapling trees, bracken, heather, gorse, deadwood. This type of vegetation is not available within the airfield due to the implementation of wildlife hazard management measures in accordance with the CAA Guidance contained within CAP 772 (Wildlife Hazard Management Measures at Aerodromes).
 - Grazing rights for cattle, sheep, ponies, horses, pigs, chickens, geese, goats, donkeys. Such livestock would directly endanger the safety of an aircraft and any commoner seeking to graze animals within a licensed aerodrome would be acting contrary to the provisions of the Air Navigation Order 2016. Specifically, Part 10 Chapter 1 Article 240 which states:
240. A person must not recklessly or negligently act in a manner likely to endanger an aircraft or any person in an aircraft.
 - Excavation of turfs, peat or digging of sand and gravel. Any attempts by commoners to undertake excavations within run off areas that lie in close proximity to the runway, taxiways or apron areas could endanger aircraft under the Air Navigation Order 2016, as stated above. . Excavations could also create areas of interest for and attract hazardous wildlife to the Airport, particularly if water were to collect in these excavated areas. This is strongly discouraged by the CAA in CAP772 – Wildlife Management at aerodromes which sets out that *'habitat management techniques should therefore be aimed at the removal or reduction of habitats that attract wildlife that gives rise to the greatest risk.'*
- 6.10 The presence of a licensed aerodrome and the resulting restrictions that therefore apply to members of the public in accessing the airfield, and also to the presence of grazing animals or the excavation of land on the airfield therefore prevent the commoners from exercising their rights of common within the airport as identified in the CL 24 common land register.
- 6.11 There would be no change in the use of the land as part of the Airport following the release of the land identified.

- 6.12 In regard to the Replacement Land, whilst there would be a reduction in the availability of horse grazing land that is currently available at Cottage Farm associated with the existing livery business, the buildings at Cottage Farm, together with the stables, livery yard and outdoor school would still remain together albeit with a reduced area of grassland to the south and south east of the buildings. The Replacement Land would be available for use by commoners with grazing rights.
- 6.13 Figure 17 shows the approximate locations of the commoners with rights of common where these are known and this identifies that the location of the replacement land is equally, if not more convenient to the registered commoners than the release land
- 6.14 There would be benefit to the public interest in providing the area of Replacement Land proposed compared to the Release Land as the Replacement Land at Cottage Farm would be available to the registered commoners to be used to exercise rights of common that cannot currently be exercised within the licensed operational area of the Airport.

Land and ownership rights

- 6.15 The land and ownership rights that are currently extant on the Release Land will remain as the de-registration of the Release Land only affects its status as common land.
- 6.16 Within the Replacement Land, there will be a termination of contracts with a group of horse owners currently using livery stabling and grazing facilities at Cottage Farm. However, the stabling facilities will still be available together with a smaller area of grazing land that can still be used for turning out horses, so that the livery business could still continue to operate, but in a format that would reflect the change in available facilities.
- 6.17 However, the provision of the Replacement Land would provide a significant benefit to the commoners and other rights holders who would be able to exercise their rights as identified in the commons register for CL Unit 24 in stark contrast to the current position in relation to the Release Land where rights of common cannot in reality be exercised over land comprised within an operational aerodrome.

The interests of the neighbourhood

- 6.18 Yateley and Blackwater are situated adjacent to Yateley Common and are the nearest local communities to both the Release and Replacement Land. When measured from the closest edge of each settlement, the Release Land is approximately 750m from Yateley and 2.9km from Blackwater and the Replacement Land is approximately 700m from Yateley and 950m from Blackwater.
- 6.19 The Release Land and the Replacement Land are equally accessible from Yateley neighbourhood. As can be seen on Figures 5 and 6, there is an extensive network of PRow that link Yateley to the Release Land and the Replacement Land.
- 6.20 As shown on Figure 6, there are also existing PRow which would directly link Blackwater to the Replacement Land. In addition, the Replacement Land is approximately 1.9km closer to the Blackwater neighbourhood than the Release Land. The residents of Blackwater will therefore be able to reach and gain access to the Replacement Land via the PRow network more easily than is currently the case for the Release Land.
- 6.21 The location of the Replacement Land and the works to be undertaken to provide access to and establish the Replacement Land would therefore provide a direct benefit to neighbourhoods in terms of its location and ease of accessibility to the nearest communities.

Public Interest - recreation and access

- 6.22 There is one public right of way (PRoW), a bridleway running through the Release Land (the Welsh Drive (Number 260/16/1)), which crosses the main runway of Blackbushe Airport before passing into the British Car Auctions (BCA) site to the north west of the Airport. Blackbushe Airport accommodates the public who wish to walk the route and will cease activity across the airfield to facilitate this use, when requested. Such a request is rare however, especially since, the BCA section of the route is obstructed, and walkers cannot pass through it. These arrangements to facilitate access along this route would remain in place following the implementation of the Section 16 Application.
- 6.23 The Replacement Land offers significant benefits to the public in regard to public rights of access and recreation rights:
- The entire area of the Replacement Land would be available for unimpeded public access, where there is no restriction due to operational airport requirements;
 - The location of the area provides opportunities for direct connections to be made to the extensive network of public rights of way that surround the Replacement Land; and
 - Additional signage would be offered with placemarkers around the edge and at key points in the middle of the Replacement Land as shown in Figure 16 to assist the public to access the area of the Replacement Land and the wider area of the common and PRoW network.

Public interest in nature conservation

- 6.24 The Release Land has features that are considered to be of local ecological importance including the airfield grassland and boundary scrub/tree line along the A30. However, the value of the grassland is limited by its management under CAP 772 aerodrome regulations which must be complied with whilst the land falls within an operational aerodrome with respect to the prevention of bird strike risk – i.e. mown to circa 4cm height to deter larger ground nesting birds and feeding wildfowl.
- 6.25 This release of this land would not affect the current status of the land comprising features of ecological importance, as the grassland and boundary scrub/tree would remain as at present.
- 6.26 The Replacement Land is considered to be of no ecological significance, comprising closely-grazed paddocks. It is, however, surrounded by the Thames Basin Heaths SPA and associated SSSI which are of international importance.
- 6.27 Neither site currently represents an important location within the wider Thames Basin Heaths SPA. Given the active management of the Release Land, it can never become an important area while it is an active airfield.
- 6.28 Notably, however, whilst the current horse grazing within the Replacement Land area restricts the ecological value of the land, the location of the Replacement Land (being surrounded by the SPA), means that, over time and once incorporated into the wider area of common, it could develop in ecological interest as an additional component of the SPA/SSSI, increasing the total area available for both SPA and SSSI interest features.
- 6.29 A draft Environmental Management Plan (Appendix E) is therefore proposed to be implemented for a period of 15 years following the implementation of the approved Section 16 Application to enable the managed development of the ecological interest of the Replacement Land. This would provide a significant public benefit with respect to ecology in comparison to the release of the land at Blackbushe Airport which will continue to be actively managed in accordance with the requirements of the relevant aerodrome regulations.

Public interest in the conservation of the landscape

- 6.30 Neither the Release Land nor the Replacement Land lies within any designated (protected) landscape, nor do either contain any rare landscape features or elements.
- 6.31 The proposed exchange of Common land would have the potential for positive landscape and visual amenity. The Release Land by virtue of being located at Blackbushe Airport has very limited public access and opportunity for public appreciation as enjoyed by other neighbouring Common Land within this lowland heath landscape.
- 6.32 The implementation of the draft Environmental Management Plan (Appendix E) as part of the proposals for this land at Cottage Farm also provides the opportunity to develop additional benefits in terms of public access and the development of landscape characteristics over time within the Replacement Land.
- 6.33 There would be no negative impact on public interest in the conservation of the landscape arising from the provision of Replacement Land for the loss of the Release Land. Rather there would be an increased benefit to the public in terms of access to the area of the Replacement Land compared to the Release Land.

Public interest in the protection of archaeological remains and features of historic interest

- 6.34 Both the Release Land and Replacement Land have some limited potential to contain sites and features of archaeological interest. For the Release Land this principally comprises a general potential for the presence of evidence of prehistoric activity in the form of worked flints and perhaps burial monuments, but there has also been disturbance here in the immediate pre-airport phase of the Second World War when anti-glider ditches and other related features were established, and practice trenches were excavated in either the First or Second World War.
- 6.35 For the Replacement Land the main potential is for evidence of prehistoric activity similar to the scatters of worked flint that have been identified on the adjacent Yateley Common. The use of the land here for agricultural purposes may have compromised such evidence – although the land is now used as pasture there may well have been previous arable cultivation that could have affected the preservation of such sites.
- 6.36 Neither the Release Land nor the Replacement Land represent key areas within the settings of designated heritage assets. The Scheduled section of the Festaen Dic to the south of the Release Land is on the opposite side of a busy A road, with the land to the north being largely occupied by an operational airport and other extensive activities associated with the car auction site.
- 6.37 There would be no loss of public interest in the protection of archaeological remains and features of historic interest arising from this Section 16 application.

Summary

- 6.38 Section 3 of the Common Land Consents Policy sets out the overarching policy objectives for the protection of commons in Section 3.1 and 3.2 and states:

3.1 The 2006 Act, along with earlier legislation on common land, enables government to:

- safeguard commons for current and future generations to use and enjoy;*
- ensure that the special qualities of common land, including its open and unenclosed nature, are properly protected; and*
- improve the contribution of common land to enhancing biodiversity and conserving wildlife.*

3.2 To help us achieve our objectives, the consent process administered by the Planning Inspectorate seeks to achieve the following outcomes:

- our stock of common land and greens is not diminished so that any deregistration of registered land is balanced by the registration of other land of at least equal benefit;*
- any use of common land or green is consistent with its status (as common land or green), so that...*
- ...works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.*

6.39 The provision of the proposed Replacement Land within the Section 16 application fully meets these Policy Objectives through:

- Providing an equivalent area of replacement common land compared to that which is released;
- Creating an open and accessible area of replacement land, with appropriate waymarking to facilitate the recreational use of the land which cannot currently be gained within the Release Land which is situated within the operational airport land;
- Implementing a 15 year environmental management plan to encourage the enhancement of ecological and landscape features within the Replacement Land and to maintain recreational access across the land;
- Providing a wider public benefit by undertaking the proposed works to establish the area and the implementation of the 15 year environmental management within the Replacement Land. These measures would enable the development of interest features within the common which cannot currently be developed or enjoyed by the public within the Release Land that forms part of the airport.

6.40 The overall benefits of the proposal in relation to the relevant criteria under the Commons Act 2006, can be summarised as follows:

- A considerable benefit to the public in being able to gain access to the Replacement Land, whereas such access is currently restricted over the Release Land by virtue of being part of the Licenced Aerodrome at Blackbushe Airport;
- A benefit to the neighbourhood through the provision of Replacement Land that is in closer proximity to and will be more easily accessible to the residents of Blackwater.
- A benefit to the commoners through the provision of land where rights of common are capable of being exercised, compared to the area of the Release Land where rights of common cannot currently be exercised within the operational Airport land;
- A benefit to the commoners where many of those with registered rights of common reside in closer proximity to the Replacement Land than the Release Land;
- A benefit to the commoners in the availability of in situ undisturbed soils where rights can be exercised, compared to the areas of largely disturbed soil materials within the area of the Release Land;
- The commitment to provide benefit to the public interest in the conservation of the landscape through the increase in public access to and public enjoyment of the Replacement Land through the proposal to implement a 15 year Environmental Management Plan within the area; and
- The commitment to work to develop the ecological interest within the Replacement Land area over time through the implementation of a 15 year Environmental Management Plan, compared to the Release Land on the Airport where, the value of the grassland is limited by its management with respect to aircraft safety under CAP 772 and the ANO 2016.

FIGURES

APPENDICES

Appendix A
CAA Licence

Appendix B

Common Land Registration Documentation

Appendix C

Location of hardstanding within the Release Land

Appendix D

Location of Site of Local Interest for Nature Conservation areas within the Release Land

Appendix E

Draft Environmental Management Plan

Summary of Pre-application Consultation Responses