

Proposal to de-register and exchange common land under
Section 16 of the Commons Act 2006

Land at Blackbushe Airport, Camberley GU17 9LQ

Applicant's Response

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1 INTRODUCTION

1.1 We act on behalf of Blackbushe Airport Limited ("**BAL**") who is the Promoter of the application made by Falcon Propco 4 Ltd ("**Propco 4**") and Cottage Farm Holdings Ltd ("**CFHL**") (together the "**Applicant**") to deregister and exchange common land (the "**Application**") pursuant to s.16 of the Commons Act 2006 ("**CA2006**") at Blackbushe Airport, Hampshire (the "**Airport**").

1.2 The purpose of this submission is to respond to matters raised by parties in relation to the Application. A number of the responses received by the Planning Inspectorate during the statutory consultation raise similar or overlapping concerns and the Applicants have therefore sought to group together and respond to any common themes raised wherever possible. The Applicant has also sought to categorise its responses under the relevant assessment criteria set out in s.16 CA2006; albeit acknowledging that there is some overlap between the matters that are relevant to each criteria.

1.3 The Applicant submitted a number of documents in support of the Application including drafts of the s.106 Unilateral Undertaking ("**Unilateral Undertaking**") and environmental management plan ("**EMP**"), a s.193 Deed and a s.17 Order. Responses received from Yateley Society and the Open Spaces Society ("**OSS**") include some commentary on and suggested drafting amendments to those documents. The Applicant has responded to and sought to address those drafting related comments separately at Appendix 1 of this response. The Applicant has consequently updated the following draft documents:

- (a) Unilateral Undertaking (Revision B) (see Appendix 4);
- (b) s.17 Order (Revision B) (see Appendix 5);
- (c) s.193 Deed (Revision B) (see Appendix 6); and
- (d) EMP (Revision B) (see Appendix 7).

1.4 Submissions in support of the application

1.5 The Applicant notes that there have been approximately 450 submissions in support of the Application. The responses in support have been received from a wide range of people, organisations and businesses, from those living in the vicinity of the Airport, leisure users of both the surrounding common land and the airport's landside facilities (such as the car park and café), pilots and others who work at the Airport and organisations/businesses based at or with links to the Airport. The Applicant has not sought to respond to each individual submission in support of the Application but where relevant has sought to draw on information provided in those submissions when responding to objections to and other commentary on the Application as set out below.

1.6 No objection / neutral submissions

1.7 There have also been a number of no objection or neutral submissions from various parties including statutory consultees such as Hampshire County Council (“HCC”), Natural England and Historic England. The Applicant has not sought to respond to each ‘no objection’ submission but where relevant has sought to draw on information provided in those submissions when responding to objections to and other commentary on the Application as set out below.

2 PRELIMINARY MATTERS

Bridleway 260/16/1 (known as Welsh Drive)

2.1 The Open Spaces Society (“OSS”) submitted a late response to the statutory consultation (copied to the Applicant and HCC) which calls into question the status of bridleway 260/16/1, known as the Welsh Drive. The Applicant notes that the OSS response asserts that the bridleway appears to be publicly maintainable (underlining added for emphasis) but has provided no explanation or evidence for this assertion. The OSS has stated that under the Department for Environment, Food and Rural Affairs (DEFRA) guidance if the bridleway is maintainable at public expense then the local highway authority, in this case HCC, must be a signatory to the Application.

2.2 The Applicant confirms that it took into account DEFRA’s ‘Notes on completing an application to deregister, or to deregister and exchange, common land or town or village greens’ (January 2023) when it prepared and submitted the Application. Specifically, it is aware of the part of the guidance note that states *“if any of the lands are crossed by a publicly maintainable public right of way such as a highway, bridleway, carriageway or footpath the relevant highway authority should be a joint signatory to the application.”* (Underlining added for emphasis). As a preliminary point, the Applicant wishes to note that this is not a mandatory statutory requirement; but forms part of a non-statutory application form guidance note.

2.3 The application documents clearly acknowledge the existence of bridleway 260/16/1, as a public highway. The Applicant’s standard pre-application checks concluded that, whilst this is a highway, it was not one that is maintainable at the public expense. This assessment was made on the following basis:

(a) When purchasing Falcon PropCo4 (and therefore the airport land), Blinkbushe Ltd, the ultimate holding company, made the usual enquires of the local authorities. The local search specifically asked HCC to confirm if there are any highways maintainable at the public expense at Blackbushe Airport. In answering the local authority search, HCC provided a plan showing those highways that are publicly maintainable at and in the vicinity of Blackbushe Airport. The Welsh Drive

is not shown (see page 44 of the local authority search at Appendix 3). The Welsh Drive is identified on a separate plan provided by HCC (see page 43 of Appendix 3) which confirms that it is a bridleway included on the Definitive Map.

(b) The Applicant double-checked this position against HCC's online list of streets and online rights of way maps prior to sending out copies of the Application for pre-consultation and before submission.

2.4 These sources were checked again following the submission from the OSS. These do not identify bridleway 260/16/1 as one that is publicly maintainable. Given this was not a point raised during the Applicant's pre-application consultation, the Applicant considered that it was entitled to rely on HCC's rights of way mapping and list of streets to conclude that, whilst the bridleway is a public highway, it was not one maintainable at the public expense.

2.5 The Applicant has since had further discussions with HCC in light of the OSS's submission. We have also seen the letter HCC provided to PINS on 26 March 2024. This notes that, regardless of the points set out above, they do consider it likely that the Welsh Drive is publicly maintainable. However, that letter also confirms HCC's consent to including two small parts of the Welsh Drive route within the Release Land. Whilst the Applicant notes that the DEFRA guidance recommends that the Highway Authority should be a joint signatory, this is not a legal requirement and it considers that the letter from HCC confirming that, as local highway authority, it consents to inclusion of the bridleway and has no objection to the Application, is in the spirit of the guidance and complies with its intended purpose. The Applicant notes that HCC agrees with this position.

3 SECTION 16(6)(A) THE INTERESTS OF PERSONS HAVING RIGHTS IN RELATION TO, OR OCCUPYING, THE LAND (AND IN PARTICULAR PERSONS EXERCISING RIGHTS OF COMMON OVER IT)

3.1 Operation of Section 16 CA2006 and the transfer of common land rights to the release land

3.2 The Applicant acknowledges submissions from Stewart and Sharon Kearney and Peter Tipton raising concerns that s.16 of the CA2006, and therefore the Application, does not provide for the transfer of their common land rights.

3.3 The Applicant notes that s.16 CA2006 must be read with s.17 CA2006 which states:

“(1) Where the appropriate national authority grants an application under section 16 it must make an order requiring the commons registration authority to remove the release land from its register of common land or town or village greens.

(2) Where the application included a proposal to register replacement land, the order shall also require the commons registration authority—

(a) to register the replacement land as common land or as a town or village green in place of the release land; and

(b) to register as exercisable over the replacement land any rights of common which, immediately before the relevant date, are registered as exercisable over the release land.

3.4 This provides the legal mechanism for ensuring that existing registered rights of common are transferred to replacement land in the event an application is granted under s.16. The Application documents acknowledge that the common rights will be transferred in the event the Application is successful and also include a draft s.17 Order (see Appendix 5), based on previous s.17 Orders for common land exchange, which specifically provides for the transfer of common land rights.

3.5 Access to Telecoms Masts

3.6 The Applicant acknowledges submissions from Barbara and Victor Mansell in relation to the telecoms masts located adjacent to the Replacement Land and future access to those masts.

3.7 The Applicant acknowledges at Section B3, Q.13 of the Application Form that there are various telecoms masts located adjacent to the Replacement Land. Currently most of the mast maintenance is achieved by engineers parking in the Cottage Farm Livery yard and walking up to the masts carrying a small tool bag. For larger maintenance activities or where there is a need for a back-up generator to be brought in (both of which are only occasional), vehicular access is provided. This will not be altered by a successful exchange because the current legal arrangements granting rights of access to the owners of those mast sites will remain in place and will provide the mast owners (including their employees, contractors and agents) with lawful authority to drive over the Replacement Land and access their masts sites either on foot or with vehicles. This is akin to what happens elsewhere on Yateley Common. For example, as HCC own most of the common, they authorise their staff and contractors to drive vehicles onto it for the purpose of maintenance, and there are some tracks and lanes which the public drive their vehicles over, again with permission from the council either formally within their property rights, or by long standing convention.

3.8 Existing use of Cottage Farm

3.9 The Applicant acknowledges the submissions by Barbara and Victor Mansell, Yateley Society and Stewart and Sharon Kearney raising concerns around the impact a successful exchange of land may have on the existing use of Cottage Farm.

3.10 The Applicant notes in particular that Barbara and Victor Mansell raised concerns in relation to the portion of Cottage Farm that is not included in the Replacement Land and Cottage Farm's current equestrian use.

- 3.11 Cottage Farm has quite a complex planning history. There are separate planning permissions relating to its use as a livery yard, the use of the 2 business units, the occupation of the domestic elements, and the use of the barns. All of these have their own requirements. The Applicant's position is that this land exchange will not render any of those planning permissions invalid. In particular, there is no lower limit on the number of horses that must be kept at the livery. The planning conditions can continue to be satisfied even if the amount of land available for grazing located at Cottage Farm is reduced by the exchange of land. The Applicant notes that Barbara and Victor Mansell also refer to the British Horse Society guidance which recommends that one acre of pasture should be available per horse. It is not for the Applicant to dictate how the current occupants of Cottage Farm run their business and note that, even if the land at Cottage Farm itself is reduced to 3 acres, there are other options open to the livery business which would enable it to keep more than 3 horses at the stables if it so wished.
- 3.12 Barbara and Victor Mansell also raise the question of the Applicant's seeking removal of the equine tie. The Applicant notes that any potential removal of the equine tie is not a specific consideration for this Application as the equine/livery use of the remaining part of Cottage Farm is capable of continuing post any exchange of the Replacement Land. This a separate matter for consideration by the Applicant and the current occupants of Cottage Farm (Mr and Mrs Barrie) who own and run the livery business and would require a separate planning application if it was considered desirable to seek removal of the tie. The Applicant further notes that a letter of consent and agreement to the making of this Application has been provided by Mr and Mrs Barrie. The Applicant will continue to engage with both the Barries and the Mansells, as close neighbours, with regards to the ongoing and future use of Cottage Farm.
- 3.13 A number of responses have referred to Cottage Farm as a "working farm". However, Cottage Farm has for many decades been used as a horse livery complex, accommodating the leisure activities of horse owners, and the grazing requirements of their animals. As set out in the Exchange Land Report, the current use of the fields is equestrian, rather than agricultural production. A working farm would be used for agricultural production including the production of crops and/or the rearing of livestock.
- 3.14 The Applicant notes that Yateley Society has asserted that the proposed exchange of land would require a material change of use application. The Applicant respectfully disagrees that the removal of the existing fences and implementation of the other EMP measures involves a material change of use of that land. The Applicant has already noted above that it will in any event continue to engage with the current occupants who run the livery business at Cottage Farm, which will continue post any exchange of land, with regards to planning and future use.

3.15 Future use of the Common Land as a Whole

3.16 The Applicant acknowledges submissions from Peter Tipton, Paul Simpson, Jacqui Coombs, Tim Akeroyd, the Yateley Society and Mr and Mrs Mann in relation to the impact the exchange of land and subsequent implementation of the Applicant's Vision will have on the future use of the common land as a whole. In particular, the following concerns are raised:

- (a) If deregistered, the Release Land would block unimpaired access for people and grazing animals from the north across the A30 to the Calthorpe part of Yateley Common to the south.

The Applicant respectfully submits that there will be no change to the present situation. The A30's existence means that access between the two parts of the common land is already impeded and that would not be changed by this Application. The Airport will also continue to provide for and permit access to the public through its car park which enables many users of the common (as reflected in the many submissions in support of the Application) to access both the north and south side of Yateley Common; albeit it is acknowledged that access to the northern part is most common from the Airport car park as there is no need to cross the A30.

- (b) If the medieval boundary edges remain, people will not use, and will eventually forget that the Replacement Land is common land.

On balance, the Applicant considers that its proposals take a measured and balanced approach between ensuring the public and commoners have access to the land, and the maintenance of heritage features in the landscape, as well as the protection of habitats.

The EMP confirms that whilst artificial barriers, such as fencing, will be removed (see EMP paragraph 1.27), there will be no works to either disturb mounds and ditching or to remove mature trees and shrubs from the perimeter of the Replacement Land (see EMP paragraphs 1.7, 1.28 and 1.30). There will, however, be numerous places around the perimeter of the Replacement Land which, once fences are removed, will provide suitable public access to the land, and many of these intersect with adjoining PRoW or with informal paths.

Figure 2 to Appendix 1 of the EMP (see Appendix 7) identifies points where signage and information boards will be placed and maintained. These boards will assist the public in navigating across the Replacement Land and signpost the other entrances and exits to the land from the surrounding existing common. They will include information on the management of the land, including who to

contact to report any issues. The Applicant has also updated the EMP at paragraphs 1.28 to 1.30 to clarify and confirm that the information boards will also include information on the heritage of the site, including the items raised by the Yateley Society, Peter Tipton, and Michael Mann concerning the field structure and the Lomer's Lane.

- 3.17 The Applicant also notes that the Replacement Land bridges a gap which currently exists between two existing areas of the common as can be seen from Figure 04 of the Exchange Land Report. The provision of the Replacement Land and the informal paths across it will provide new connections to the existing network of Public Rights of Way that surround the land. These additional routes will also provide the potential to reduce current pressures on the use of the existing surrounding footpath and bridleway network by increasing both the area within which access can be taken and also the number of routes available.

4 SECTION 16(6)(B) - THE INTERESTS OF THE NEIGHBOURHOOD

- 4.1 For clarity and as set out at paragraphs 6.18 to 6.24 of the Exchange Land Report, the Applicant confirms that it considers the 'neighbourhood' for the purposes of this Application to comprise of the communities living in the nearest settlements being Yateley (including Frogmore and Darby Green) and Blackwater.

4.2 Management of the Replacement Land

- 4.3 The Applicant acknowledges submissions from the Yateley Society, Peter and Sharon Hall, Jean and Bernard Little, Stewart and Sharon Kearney, Sarah Allen and Mr and Mrs Mann in relation to the management of the Replacement Land.

- 4.4 A number of the representations make clear that they would like to see the management of the Replacement Land put under the control of HCC or another party. The Applicant is not in a position to force either HCC or another party to take on the Replacement Land and its ongoing management. The Promoter consulted with HCC prior to submission of the Application, and it is the Promoter's understanding that HCC is not currently in a position to take on the Replacement Land should the Promoter's s.16 Application be successful.

- 4.5 In light of the present situation, the Applicant considers that it has put forward a balanced, sustainable and appropriate solution through its Application. Specifically:

(a) An EMP (developed by the RPS environmental team led by Julia Tindale, Senior Director in Land Use and Recreation, Nick Betson, Technical Director in Ecology and Mick Rawlings, Director in Heritage) which:

- (i) secures the establishment and integration of the Replacement Land into the common, and the development over time of habitats;

- (ii) provides better opportunities for communities in the neighbourhoods of Yateley (including Darby Green and Frogmore) and Blackwater to access the replacement land than the release land and to gain benefits from the provision of informal paths and the proposed information boards as well as the experience of the landscape features within this additional area;
 - (iii) provides for input from HCC and Natural England into the annual reporting and plans to ensure the establishment of the land is sympathetic to surrounding designations such as the SSSI and SPA;
 - (iv) secures the provision of information boards which will assist the public in navigating across the Replacement Land, include information on the management of the land and include information on the heritage features of the site; and
 - (v) secures regular reporting to the Yateley Common Management Committee, giving the local community an opportunity to influence the future direction of the EMP and hold the Promoter accountable.
- (b) Funding for the works required will come from the income the telecoms masts already provide to the land.
 - (c) A Unilateral Undertaking granting HCC enforcement powers in the event CFHL does not comply with the obligations contained within the Unilateral Undertaking and the EMP. The Unilateral Undertaking would also be binding on any future purchaser of the land.
 - (d) A draft s.17 Order which secures the transfer of the common land designation and commoners' rights and secures public access through the accompanying s.193 Deed, to a piece of land which is not subject to Airport restrictions and regulations.
 - (e) A s.193 Deed which secures immediate public access to the Replacement Land to ensure there is no delay between the granting of the s.17 Order and the legal right for the public to access the land.

4.6 With regards to concerns relating to the EMP's 15-year management period, the Applicant confirms the following:

- (a) The initial 15-year period set out in the EMP accords with general best practice for landscaping and ecological management plans. In the absence of specific guidance on the preparation of environmental management plans to establish common land, the Applicant's specialist ecology and landscape advisers have applied professional judgement and had regard to relevant guidance such as that

set out in the *Design Manual for Roads and Bridges* (used to prepare landscape and ecological management plans for highways schemes) which confirms that a 15-year management period is appropriate to assess whether vegetation and functioning habitat types become effectively established¹; and

- (b) Paragraph 1.61 of the EMP includes an ongoing commitment by CFHL (as the responsible landowner) to ensure the general upkeep of the Replacement Land and to maintain the desire paths established during the Management Period to a standard suitable for recreational access (in accordance with the s.193 Deed). The Applicant has additionally included an ongoing obligation to maintain the historic boundaries located across the Replacement Land to a standard to be agreed from time to time with HCC and Natural England.

- 4.7 Different parties have expressed their interests in how the ecological and heritage value of the Replacement Land is developed. Some would like to see it improve as heathland, some would prefer a wildflower meadow. Others highlight the importance of maintaining historic boundary features whilst accommodating access at key points around the perimeter and some have raised concerns about the removal of current grasslands at Cottage Farm.
- 4.8 The Applicant notes that paragraph 1.14 of the EMP confirms that the primary objective to be adopted through the EMP, as supported by Natural England, is to focus on the natural regeneration of the Replacement Land from grazed paddocks towards a matrix of heathland, gorse and grassland after the cessation of grazing.
- 4.9 This does not involve active removal of existing grassland. Rather, the EMP proposes an initial period to allow the natural seedbank that may be present within the Replacement Land soils to regenerate naturally. As this occurs, the management proposals can be agreed during the period of the EMP to respond to input from relevant stakeholders including the local community and interest groups. Whilst management measures may be adjusted over time, the approach proposed is designed to enable habitats that would provide significant ecological benefits to develop, consistent with the habitats associated with the SSSI and the SPA. Natural England recognise this benefit in their response to the application where they comment “*Due to its use for horse grazing we do not anticipate that the short sward vegetation associated with the [replacement] land has any significant or notable level of ecological interest. The fields that comprise this area do not form part of the adjacent SSSI or SPA. An Environmental Management Plan has been developed for the [replacement] land which over time, via a process of natural regeneration, aims to develop a more diverse matrix of heathland, gorse and grassland. Given the proximity of*

¹ See DMRB, LA 107 – *Landscape and Visual Effects (Revision 2) (February 2020)*, which describes that when assessing the implementation of a landscaping scheme, assessments should be carried out in the 15th year i.e. the “design year”.

*the habitats associated with the SSSI and SPA such an approach will, we believe, result in nature conservation benefits accruing from the exchange”.*²

4.10 Whilst wildflower seeds may be present within the underlying seed mix on the Replacement Land (which will be monitored in accordance with the EMP), establishment of a wildflower meadow on the Replacement Land would be contrary to the primary objective of the EMP (as supported by Natural England).

4.11 However, in view of various parties’ expressing an interest in and putting forward proposals for the Replacement Land, the Applicant has reinforced CFHL’s commitment, at (what is now) paragraph 1.9 of the EMP to consider proposals from interested parties (including the Yateley Society) to undertake additional ecological or heritage works on the Replacement Land during the Management Period and beyond. Paragraph 1.65 of the updated EMP sets out a process through which such proposals may be brought forward.

4.12 Future Use and Enjoyment of the Release Land - Vision Proposals for the Release Land

4.13 The Applicant acknowledges submissions from the Yateley Society, Yateley Town Council, Peter Tipton, Stewart and Sharon Kearney, Sarah Allen, Neil Rickard, Paul Simpson, Andy Stevens, Terry Knight, Lynn Watts, Jean and Bernard Little, Claire Morrison, Bramshill Parish Council, Grant Hawkins, Mr and Mrs Mann and John Ellis in relation to the potential future use of the Release Land if it is de-registered. The Applicant understands that the concerns particularly relate to the position if the Airport ceased to operate, or if the land is sold, and whether the Release Land could be used for residential or industrial developments.

4.14 A number of representations refer to the Applicant’s ‘expansion plans’, however, the Application is for a like for like land exchange of 35.3 acres. There would be no expansion in the size of the airport as a result of any exchange of land.

4.15 The Applicant provided a copy of its Vision for the future of the Airport with its Application. Whilst the Vision document is at an early stage, it provides clear information on the objectives the Promoter seeks to achieve from development at the Airport. This Vision was provided in order to be transparent about the Promoter’s future plans and includes some graphic impressions to help the public and the Inspectorate to visualise the proposals. The Vision demonstrates that the Promoter has no plans to develop the Airport into anything other than a General Aviation airport.

4.16 In the event the Application is granted, the Applicant acknowledges that it will take a step forward in achieving its Vision as one barrier to its proposals would be removed. However,

² The Applicant notes that the Natural England response inadvertently refers to the Release Land in this quoted text whereas it is clear that it is referring to the Replacement Land so the Applicant has inserted that correction in [].

it also readily acknowledges that deregistration of the Release Land is only the first step in this process. The Vision proposals would need to be further developed and refined and the Promoter's final development proposals for the Release Land must also be in accordance with planning legislation and policy. Whilst the Applicant has acknowledged during its pre-application consultations that some hangarage could be installed under permitted development rights, the vast majority of the Vision will require submission of a full planning application. The planning elements of the Vision will be fully debated and assessed through the planning application process. As part of the Application, appropriate measures will be put forward and secured through conditions or s.106 obligations (as appropriate) to ensure the development is as sympathetic as possible to its surroundings. There will also be a further opportunity for the public to scrutinise the Airport's development plans through the planning process. The planning merits of the proposal are the remit of the local planning authority and are not for determination through the s.16 procedure.

- 4.17 It is notable however that there is strong policy support, both national and local, for the retention of the Airport as a General Aviation centre. The Applicant has summarised relevant policies in Appendix 2. There is also significant support for the retention of the Airport within the local community and the aviation community as is demonstrated through the numerous submissions in support of the Application.
- 4.18 The Applicant further notes that simply removing the common land status would not immediately expose the airport land to development for uses other than General Aviation purposes (its current permitted planning use) as any such change of use would be faced with significant planning hurdles. In particular, given the current policy and legislative framework, it is considered extremely unlikely that the Blackbushe site could ever be used for housing. The site at Blackbushe does not conform with government planning strategy which favours the gradual expansion of existing towns and villages through sustainable developments. The Airport is bounded by common to the North and East, by British Car Auction's ("**BCA**") and the Castle Bottom Nature Reserve to the West, and by Minley Manor and the Gibraltar Barracks to the south, and so any development would be isolated and would not have any community amenities on which to rely.
- 4.19 The Airport has a complex history and the Promoter and Applicant's primary aim is to resolve the unsatisfactory present situation where an operational aerodrome is situated on common land. A successful exchange would, therefore, have the significant, and primary benefit of partially regularising the longstanding conflict that exists by virtue of having an aerodrome located on registered common land. As set out in paragraph 6.23 of the Exchange Land Report and Section D of the Application Form, this has significant benefits for the Airport but also users of the common, the airport café and car park, individual aviation enthusiasts, pilots and businesses/organisations located at the Airport.

This is borne out by the overwhelming number of positive and many very detailed submissions in support of this Application.

4.20 Whilst no-one can predict or guarantee the future, the Promoter and the Applicant strongly believe that the future of Blackbushe as an Airport will be secure following a successful exchange of land for the following reasons:

- (a) The Airport has a committed owner who has other similar businesses within this industry. The Airport is viewed as a generational asset, not as a business to simply be grown and sold on.
- (b) Within the Hart Local Plan and Yateley Neighbourhood Plan there are specific policies which support the development of the Airport as an aerodrome and oppose other uses.
- (c) The operational airport land (including the Release Land) has planning permission for use for aviation purposes. Any change of this use would be subject to planning approval by the local authority and would only be permitted if it were determined to be in accordance with local and national policy.
- (d) The Airport is surrounded by SSSI and SPA land, and so any change of use of the land from aviation to other purposes would be extremely difficult to achieve.
- (e) The Applicant has offered legal protections through its Unilateral Undertaking to ensure compliance with the EMP for the ongoing and long-term management of the Replacement Land.
- (f) The Airport is both protected and subject to s.52 Agreement³, and policies in the local and neighbourhood plans, as well as the NPPF.
- (g) The best way to ensure the Airport's future as a General Aviation airport is through its development in line with the Vision.

4.21 The Promoter has a high degree of confidence in its business plan and the viability of the Vision. It will be built to match demand and will continue to serve the needs of the diverse types that use the Airport. The Airport is not reliant on one specific sector. The Applicant notes that remarks regarding the site being left derelict apply equally now as they do in the future. If the Airport is not able to evolve to meet today's General Aviation needs, then it will not be viable, and has the potential to fall derelict, or pass on to other owners with no guarantees at all for the future use of the land.

³ This is a planning agreement entered into in 1985 by British Car Auctions and the local planning authority and which binds the Airport land.

- 4.22 The Applicant also notes the submissions from Yateley Town Council in particular requesting that additional restrictions are placed on the Applicant as part of any decision on the proposed deregistration and exchange of land including requesting that a condition is included to secure that *'any development within the curtilage of Blackbushe Airport must be for aviation purposes only'*. The Applicant does not consider that any such condition would be appropriate to include as part of a s.17 Order. This is a planning matter and as already highlighted above at paragraph 4.18 any change of use from the current permitted aviation use could only be achieved through a planning application.
- 4.23 In addition, in the event the Application is successful, it would not be appropriate to seek to add a condition to the s.17 Order specifying that in the event of an Airport closure the Release Land must revert to Common Land. The purpose of s.16 is to provide other land as common land to replace the land that must as a result of a s.17 Order be removed from the Common Land Register such that it can no longer be treated as common land. Such a land use restriction on the Release Land would be entirely contrary to the purpose of s.16 and s.17 CA2006 and would be irrational.

5 SECTION 16(6) (C) - THE PUBLIC INTEREST

5.1 Impacts on Public Access

- 5.2 The Applicant notes submissions from Geoff Overton, Paul Simpson, Terry Knight, Beverley and Paul Cooke, Barbara & Victor Mansell, Phil Hampton and Mr and Mrs Mann which relate to the impacts on public access to both the Release Land and the Replacement Land.

Release Land

- 5.3 There are no areas of the Release Land that the public currently has access to that would be lost. As set out at paragraph 5.4 below, the airside portion of the release land is not generally accessible to the public, however, the Airport does allow and encourage members of the public to visit the Café and permits the use of its car park to facilitate members of the public access to Yateley Common from the A30. This will not change as a result of the exchange of land or in the future when the Airport implements its Vision as car parking, which the public can use to access both the café and Yateley Common, will be retained.
- 5.4 The Applicant acknowledges Peter and Sharon Hall's response which specifically raises concerns that the Replacement Land is further away than the Release Land from those who live in the west of Yateley. Whilst the location of the Replacement Land might be further from those who live in the west of Yateley, it is of course closer to those who live in the east of Yateley. In any case and as set out in section 6 of the Exchange Land

Report, the Release Land is not generally accessible to the public in practical terms given the presence of an operational aerodrome.

- 5.5 A number of responses raise concerns about bridleway 260/16/1, known as the Welsh Drive. As acknowledged in section 2 of this Response and within the Exchange Land Report, the Applicant has acknowledged that the Welsh Drive crosses two parts of the Release Land as can be seen from Figure 05 to the Exchange Land Report. Most of the Welsh Drive's existing route through the active aerodrome is in areas not included within the Release Land and so is unaffected. The Application itself, if successful, will have no impact on the status of the Welsh Drive which will remain a public highway on the same route as it currently exists. Any change to the status or route of the Welsh Drive through the Airport land is subject to a separate statutory regime and the Applicant remains in discussions with the HCC Rights of Way team with a view to satisfactorily resolving the recognised and longstanding conflict between the location of the Welsh Drive and the Airport and neighbouring BCA operations. The Airport owners remain committed to working with both HCC and BCA.
- 5.6 Whilst the inclusion of two small parts of the route of the Welsh Drive within the Release Land area is to facilitate the Airport's future Vision proposals, the Applicant confirms that no new buildings or structures are proposed as part of the Vision that would obstruct the existing route. As set out at paragraph 6.22 of the Exchange Land Report, the Airport would continue to honour the current arrangements it has in place to facilitate members of the public who wish to take access across the Airport land along the route of the Welsh Drive at their prior request.

Replacement Land

- 5.7 Whilst no new public rights of way are proposed over the Replacement Land as part of this Application, the Applicant notes that with regards to the Release Land members of the public will conversely be provided with additional unfettered access pursuant to the s.193 Deed which will come into effect pursuant to any s.17 Order granted as a result of this Application.
- 5.8 As can be seen from Figures 5 and 6 to the Exchange Land Report, members of the local communities of Yateley (including Darby Green and Frogmore) and Blackwater will generally have more direct, quicker, and easier access to Yateley Common through the new connections that will be made between the Replacement Land and the existing Public Rights of Way network that surrounds the Replacement Land.

5.9 Environmental and other impacts from the Vision Proposals (Release Land)

- 5.10 The Applicant acknowledges submissions from Peter Tipton, Geoff Overton, Neil Rickard, Paul Simpson, Richard Dodd, Lynn Watts, Jean and Bernard Little, Claire Morrison, Tim

Akeroyd, Peter & Sharon Hall, Sarah Allen, Stewart & Sharon Kearney, Grant Hawkins and Maddie Bird-Jackson in relation to various impacts arising as a result of the Applicant's Vision proposals.

Impacts on SSSI and SPA designations within the wider area including on habitats and birds and impact on SINC grassland located within the Release Land

- 5.11 Some of the submissions refer to the impact of the future development proposals on the nearby Thames Basin Heaths Special Protection Area (the “**SPA**”) and the Castle Bottom to Yateley and Hawley Commons Site of Special Scientific Interest (the “**SSSI**”). Reference is also made more generally to impacts on habitats and birds as well as the potential future impact on an area of grassland within the Release Land designated as a Site of Importance for Nature Conservation (“**SINC**”).
- 5.12 As set out at paragraph 4.16 above, the Promoter's Vision proposals would need to be further developed and refined and the Airport's final development proposals for the Release Land must also be in accordance with both planning and environmental legislation and national and local policy considerations. As part of that process, measures will be taken to ensure the development is as sympathetic as possible to its surroundings including the SSSI and SPA designations on nearby land and that, where required, appropriate mitigations are put in place for any potential adverse impact. There will also be a further opportunity for the public to scrutinise the Airport's development plans through the planning process. The Applicant reiterates that the planning merits of the proposal will be the remit of the local planning authority to be determined when a planning application is made.
- 5.13 It was also acknowledged in response to Question 25 of the Application Form that full consideration will have to be given to the SINC designation as part of any planning proposals for future development of the Release Land.
- 5.14 Potential environmental impacts from the Applicant's Vision proposals should also be balanced against the environmental benefits to be achieved by the EMP measures at the Replacement Land. The EMP provides for the regeneration of heathland type habitat, which would encourage bird species recognised within the wider area to use the Replacement Land area as the habitat develops. The variety of habitats currently across Yateley Common supports many birds of European importance including Nightjar, Dartford Warbler and Woodlark, all of which are vulnerable ground nesting birds. Natural England in their response to the consultation have confirmed that the approach to environmental management within the EMP and the establishment of heathland habitat over time will result in natural conservation benefits from the proposed exchange.
- 5.15 In addition, and as highlighted above at paragraph 3.17, the provision of the Replacement Land and the informal paths across it will provide new connections to the existing network

of Public Rights of Way that surround the land. These additional routes will also provide the potential to reduce current pressures on the use of the existing surrounding footpath and bridleway network which will also have the potential benefit of reducing existing pressures on the surrounding SSSI and SPA.

Impact on historical airport features

- 5.16 The Applicant notes concerns raised by Yateley Society that any development will have an impact on historical airport features located on the Release Land.
- 5.17 The only features remaining from the wartime era are the runway and network of taxiways, as well as the original 1953 terminal building. Nothing within the land exchange application will alter these. Within the Vision document, the original terminal is identified as a site for a new Heritage Centre, celebrating the history of the Airport. For this purpose, the Blackbushe Heritage Trust was formed in 2022 and two BAL directors serve on the board of 7 trustees. The network of taxiways will be supplemented, but original features will not be lost.

Increased air traffic movements and noise

- 5.18 The Applicant notes that Lynn Watts, Neil Rickard, Terry Knight, Jacqui Coombs, Jean and Bernard Little, Tim Akeroyd, Peter and Sharon Hall, Gemma Reynolds and Richard Wilson, Claire Morrison, Grant Hawkins, Ishbel Thomson and Maddie Bird-Jackson and the Yateley Society have provided comments on a potential increase in air traffic movements and/or noise as a result of the proposed Vision if the Application is approved, including concerns that the Vision provides for a fully commercialised airport. It is noted that this includes a number of residents of Brandy Bottom.
- 5.19 The Vision seeks to provide modern facilities appropriate for today's users. This includes improved flying school facilities, passenger facilities, and hangarage for aircraft. The Promoter and the Applicant do not consider that it is or will be in future practical for the Airport to accept commercial or scheduled flights, and as such there are no plans for this. The proposed development is designed to support the types of aircraft already in use at the airport. The Promoter's focus remains on light General Aviation and it has no intention of changing the type of aircraft used at the airport, noting that the runway is not long enough to support traffic larger than what is already operating at the airport.
- 5.20 The vast majority of the movements at the Airport are single engine piston aircraft with students learning to fly. These flights predominantly take place in the circuit to the south of the aerodrome, causing very little disruption to local residents.
- 5.21 The aerodrome circuit has been in place since 1980, and the Applicant's data shows good circuit compliance. Blackbushe reports movement levels, noise complaints, and other operational matters at a public Consultative Committee meeting twice annually, with

minutes and other supporting materials published on the airport website. This meeting has representatives from most of the local councils and members of the public have the opportunity to ask questions. There are a very low number of complaints annually, and the issue of circuit compliance has never been raised. Whilst the Airport does not have radar or other electronic monitoring equipment, the Civil Aviation Authority did provide Blackbushe with some data from August 2022 at a recent audit, which is attached at Appendix 8. It shows aircraft tracks below 2,000ft as a heat map, but shows all aircraft, not just those landing or taking off at Blackbushe. This heat map demonstrates the circuit compliance to the south of the aerodrome. It also shows how few aircraft overfly the Yateley area. The properties at Brandy Bottom are directly underneath the approach path, approximately 1.4km from the runway threshold. Aircraft making an approach for Runway 25 would be at or below 500ft over the properties.

- 5.22 The Applicant notes that some responses have provided measurements in relation to the perceived increase to air traffic resulting from the Vision proposals. The alleged increase has been measured against the period between 2013 to 2023. This does not give a fair or balanced reflection of the position. The global recession in 2008 substantially reduced aviation movements, and the Promoter has been working for many years to restore the flying levels previously seen at the Airport between 2001 and 2008. Movement numbers in 2023 were in fact lower than in 2001, 2003, 2004, 2005, 2006 and 2007. The Airport's movement projections are modest in nature and, as outlined within the Vision document, the Promoter does not anticipate a significant increase in movements from executive aviation (commonly referred to as private jets and helicopters). The Airport's movement projections are detailed at Appendix 9.
- 5.23 The Vision proposals would allow the Airport to pursue hangarage revenue from aircraft which fly infrequently. Without hangarage, the Airport is forced to pursue landing revenue, and this actually increases movements. The Airport's s.52 Agreement places certain restrictions and controls on the Airport operations. For example, it provides for a noise abatement area where direct overflight is prohibited for all aircraft departing or landing at Blackbushe except in an emergency, and limits operational hours to between 0700 and 2200 local time. The purpose of the noise abatement area is to avoid overflights of Yateley Town. The Promoter is not intending to seek to remove any of the existing operational controls.
- 5.24 In relation to properties not within the noise abatement areas (which includes properties at Brandy Bottom where residents live less than 400m from the airport boundary), the Applicant acknowledges that overflights and aviation related noise will be experienced. It is also noted that the vast majority of residents, when purchasing their properties at Brandy Bottom, would have been aware that Brandy Bottom is located underneath the approach and climbout for the runway.

- 5.25 The Applicant notes comments from some objectors that noise complaints are ignored. The Applicant disagrees with this position as it has a robust complaints procedure in place. All complaints are recorded and published online.⁴ The airport reports on noise complaints twice annually at the Blackbushe Airport Consultative Committee. The number of complaints the airport receives in total each year are in the region of 60, and since the new management introduced an electronic reporting log in 2017, only 4 complaints have been received from residents of Brandy Bottom. The Applicant submits that noise complaints represent 0.001% of the airport's movements.
- 5.26 The Applicant intends that any potential noise and vibration effects of constructing the proposed development can be controlled through standard proven construction methodologies. There may be limited noise associated with construction HGV traffic but movements during the construction phase are unlikely to be significant in the context of the baseline traffic flows. Post-construction, limited changes in aircraft movements are expected. The operational restrictions will remain in place to control aviation-related noise.
- 5.27 In addition, the Applicant again highlights that any aircraft movements and noise resulting from the proposed Vision development would be fully considered as part of the planning process and there will be an opportunity for the local community to properly scrutinise the final development proposals as part of that process.

Increased road traffic and air quality

- 5.28 Concerns have been raised by Ian Dobinson, Richard Dodd and Peter and Sharon Hall in relation to the potential for road traffic to increase along the A30 as a result of any subsequent development to the airport following the de-registration of the common land.
- 5.29 The Applicant has provided information on predicted traffic increases on the A30 within the Vision document. In summary, the Applicant does not consider that traffic on the A30 will be materially affected by the Application.
- 5.30 The Applicant acknowledges that the Application is likely to result in some increase in road traffic to the site. Broadly, a perceptible increase in noise associated with road traffic would require a doubling of traffic flow on a given link. Whilst the post-construction traffic movements will increase, given the high volume of background traffic on the A30, it will not result in a doubling of traffic flow. Therefore, the proposed development is not considered likely to generate significant operational noise post-construction.
- 5.31 The airport is not within or adjacent to an air quality management area; the closest is in Frimley, approximately 6km from Blackbushe Airport. Construction of the proposed

⁴ www.blackbusheairport.co.uk/consultative-committee

development has the potential to cause dust. However, standard and proven construction methodologies will be used to protect habitats.

- 5.32 Aviation activities (such as the number of movements, types of aircraft etc) will remain within the Airport’s current operational controls, therefore the proposed development is not considered likely to have a significant effect on air quality from aircraft emissions. Any potential impact on air quality resulting from surface access vehicles will be assessed robustly in consultation with HCC Highways as part of the planning process.

Community Benefits

- 5.33 The Yateley Society asserts that the Vision relies on ‘private aviation’ which is a pursuit of the ‘small elite’ and also questions the benefit of the Airport and its Vision proposals for the local community.

- 5.34 As previously stated, Blackbushe Airport is a General Aviation airport. This includes a variety of different aircraft types, propulsion methods, and operation objectives. Less than 5% of the Airport’s annual movements are for what is often described as ‘business/executive/private aviation’ passenger transport (whether charter or private). The bulk of aircraft movements are associated with the 4 flying schools based at the Airport. Many of the students aspire to fly professionally, for airlines carrying passengers or cargo. The Airport’s flying schools provide the first step in this training journey whereby the schools can train pilots to achieve an Airline Transport Pilots Licence. Irrespective of the views on the merits of flying more generally, the aviation industry, including General Aviation, is strongly supported by government and national and local policy highlighted in Appendix 2 and is in continuous need of pilots and aerodromes such as Blackbushe provide this important service.

- 5.35 The Promoter makes a measurable and important contribution to the local community which is not limited to part-time youth employment. During the 2023 calendar year BAL directly employed 69 people and has produced the following breakdown.

Area	No	%	Wages
Located in Yateley Parish	13	19%	£121,015
Located in Hart District	22	32%	£380,758
Located within 5mi Radius <i>*note some staff live in Hart District but outside a 5 mile radius</i>	38	55%	£484,929
Located within 10mi Radius	60	87%	£800,942
All	69		£967,391

- 5.36 This does not include the other people who are employed by the tenant businesses on the airport site, including flying instructors, engineers and administration staff.
- 5.37 Further, the Airport is proud to utilise local businesses wherever possible. The following table shows the total number of businesses utilised and the spend at the businesses during 2023.

Area	No	Spend
Located in Yateley Parish	11	£81,586
Located in Hart District (inc Business Rates)	23	£152,213
Located within 5mi Radius	44	£161,831
Located within 10mi Radius	67	£230,097
Total All Supplier Costs (excludes aviation fuel & utilities)	162	£992,483

- 5.38 Finally, the Applicant must highlight the contrasting position which is demonstrated by the significant submissions made in support of Blackbushe Airport and its Vision by members of the local community in response to the Application.

5.39 Replacement Land - Impacts on nature conservation, landscape and protection of archaeological remains and features of historic interest

Nature Conservation

- 5.40 The Applicant notes that with regards to nature conservation there is an overlap with the submissions identified under, and responses that have already been provided under the heading “Management of the Replacement Land” at paragraph 4.1 above and the Applicant has not repeated those submissions here.

Landscape and visual amenity

- 5.41 A submission has been made by Yateley Society, raising concerns that the visual amenity and scenic quality of the Replacement Land will be lost.
- 5.42 The Applicant notes that, whilst there are currently some limited views across parts of the Replacement Land from the surrounding public rights of way, the designation of the Replacement Land as common land with rights of public access would enable members of the public to access and enjoy the whole of this land and to experience new views that are not currently available to them. In addition, whilst the horse keeping paddocks currently include short, improved grassland areas, there is no guarantee that this would remain the status quo in the absence of an exchange of land. For example, were the husbandry of the area to change at some future point, such as the inclusion of sustainable farming incentives being introduced by the government to encourage the delivery of future

biodiversity objectives, this could well include taller vegetation of the type that may establish over time in the same way as the development of the proposed vegetation within the EMP for the Replacement Land. A key difference would be that there would not be the benefit of public access to the land in the absence of a successful exchange. As previously noted, the Applicant considers it has taken a balanced approach to its proposals with regards to balancing potential competing interests or desires for the Replacement Land.

Historic Interest

5.43 Yateley Society has included some imagery with its submissions. It is not entirely clear from the imagery submitted where Yateley Society considers Lomer's Lane to be. In any case, the EMP does not envisage carrying out any operations on the Replacement Land, that might create disturbance beyond those that would occur if the land remained in equestrian use. In addition, designation of the Replacement Land as common land and its management in accordance with the EMP would remove the potential for more intrusive agricultural operations to be undertaken in the future which are considered more likely to disturb any archaeological features. CFHL has also expanded its existing commitments in the EMP (at paragraphs 1.28 to 1.30) to provide way markers and information boards on the Replacement Land to consult with the Yateley Society (and others) regarding:

- (a) the inclusion of any additional information on such information boards regarding the Replacement Land's heritage features (such as Lomer's Lane); and
- (b) the location of any heritage features on the Replacement Land (such as Lomer's Lane) and whether any additional management measures are necessary to ensure the preservation and public accessibility of such features.

5.44 As part of the commitment to public accessibility, CFHL is willing to consider if there are potentially suitable access points to the Lomer's Lane feature from the adjacent existing common, provided this does not conflict with other historical features, or require the removal of mature trees or other features of ecological value.

5.45 Some responses have raised concerns about the loss of the ancient field systems. The Applicant notes that, as set out in paragraph 3.71 of the Exchange Land Report and paragraphs 1.7 and 1.28 of the EMP, the definition of the fields is currently through modern fencing and where there are landscape features including trees and boundary vegetation these would not be affected by the Application.

6 SECTION 16(6)(D) – ANY OTHER MATTER CONSIDERED TO BE RELEVANT

6.1 Schedule 2 Application

6.2 The Applicant acknowledges that submissions from Stewart and Sharon Kearney, Grant Hawkins, Lyn Watts, Ishbel Thomson and Richard Dodds reference the Applicant's

previous Schedule 2 Application with a number of representations raising concerns that the Applicant has not accepted the decisions of the UK Courts and question why the Applicant did not offer an exchange of land in 2016.

- 6.3 The Applicant has acknowledged the previous application by the Promoter under Schedule 2 of the Commons Act 2006 and its outcome in its answer to Q.21 in Section D of the submitted Application Form. The Airport also acknowledges that the process of reaching a final decision on the Schedule 2 Application took almost 7 years. However, the length of time it took for a final decision was largely outside of the Applicant's control and it too would certainly have preferred a speedier resolution of that application.
- 6.4 The Promoter and the Applicant have accepted the decision of both the High Court and the Court of Appeal to limit the amount of land that was capable of deregistration pursuant to the Schedule 2 Application. The decision of the High Court and Court of Appeal was that Blackbushe could not use Schedule 2 to deregister the operational area of the airport outside of the building footprints of the main terminal building and the original footprint of the café building on the basis that it falls within the curtilage of the terminal building. The Court's decision did not decide that the airport should not be deregistered where an exchange of land is proposed.
- 6.5 The Applicant also wishes to clarify that the costs to the public purse relating to the challenge of the Schedule 2 Application were not several million pounds. The Promoter was in fact liable for HCC's costs in relation to the Court of Appeal and these have been paid without dispute by the Promoter.
- 6.6 The CA2006 provides for deregistration of common land in more than one way. There are a couple of routes under Schedule 2 where certain legal tests have to be met for deregistration to take place and there is also the land exchange option under s.16 CA2006.
- 6.7 The Airport took legal advice and explored all its options in 2015/2016. At that time, the Airport considered that it met the relevant tests for deregistration of buildings and their curtilage in its subsequent Schedule 2 Application, which was submitted in December 2016, whereas the option to exchange land did not exist for the Airport as there was no potentially suitable land available to the Airport for which an exchange could be offered.
- 6.8 The Airport has however continued to search for opportunities to acquire suitable exchange land. In the past 9 years only two genuine opportunities to acquire land potentially suitable for exchange have arisen:
- (a) In 2020, a large parcel of land near Kit's Croft became available but was purchased by a housing developer.

- (b) In 2021 the Promoter was able to negotiate and secure the purchase of Cottage Farm by CFHL. This sits on 40 acres, with approximately 35.3 acres of land considered to be suitable for land exchange.

6.9 Precedent

- 6.10 The Applicant notes the concerns raised by Richard Dodds, Grant Hawkins, Paul Simpson, Lynn Watts, Gemma Reynolds, Richard Wilson, Sarah Allen, Terry Knight, Claire Morrison and Mr and Mrs Mann in relation to the setting of precedent and the potential to 'lose' access in the future to other areas of the common land outside of the boundary of the Release Land, including the disused runways to the north of the operational airport land.
- 6.11 It does not naturally follow that the decision on this Application, whether positive or negative, would automatically set a precedent for the outcome of any future s.16 applications, either relating to Yateley Common or elsewhere. Each and every s.16 application must be assessed on its own merits by an inspector against the assessment criteria set out in s.16 CA06 and in accordance with DEFRA's Common Land Consents Policy dated November 2015. It is never sufficient to simply point to another decision and say that the same decision should be taken here.
- 6.12 In addition, the parameters of s.16 are naturally self-limiting. The starting point for any s.16 application (requiring exchange land) is that the owner of the common land, who wants to apply for an exchange, must first find and acquire an equivalent and suitable area of land to offer in exchange. The larger the area a landowner is seeking to deregister, the harder this is to achieve, which is demonstrated by the challenges the Promoter itself has faced in securing suitable land to put forward for exchange as set out above at paragraph 6.8.
- 6.13 With regards to the land north of the operational airport containing the disused runways, the Applicant can confirm that there are no plans to change the status quo by submitting a s.16 application for all or any part of that area. It certainly does not form part of the Promoter's Vision or its ongoing business plans. The Applicant recognises the value the local community place on having free access to and use of this area. Moreover, in 2023, the Promoter entered into an 11-year lease with the RSPB who have commenced works in accordance with a management plan (funded by a Countryside Stewardship grant) to improve the habitats for protected species.
- 6.14 Furthermore, BAL must also comply with the terms of the s.52 Agreement which binds the land. That agreement still operates today. It includes a requirement that the two northern runways must cease to be used and must be made open to the public for recreation.

6.15 Clarifications relating to Submissions from owners/occupants of Brandy Bottom

6.16 The Applicant notes that a number of submissions have been made from those that live within Brandy Bottom, a small community of 10 houses. A number of the submissions state that Brandy Bottom forms part of or is located on the common land. The Applicant has reviewed Land Registry records and the registered common land map and wishes to clarify that it is the Applicant's understanding that the houses at Brandy Bottom are located on land adjacent to Yateley Common and are not situated on the registered common land. Unlike the Airport land, they are not therefore subject to common land restrictions to develop their land and property in addition to planning restrictions which are applicable to all land and property.

6.17 The Applicant also wishes to clarify that the provisions of the CA2006, including s.16, are available to anyone who owns land which is designated as common land, whether private individuals, businesses or other organisations.

6.18 Position of the Applicant

6.19 The Applicant acknowledges the concerns raised by Paul Simpson, Andy Stevens, Richard Dodd, Claire Morrison, Tim Akeroyd, Ishbel Thomson and Mr and Mrs Mann in relation to the position of the Applicant. The Applicant notes that the concerns specifically appear to relate to the financial position and integrity of the Applicant and the Promoter. The Applicant acknowledges that Cottage Farm Holding Limited is registered in Guernsey but the Promoter, the revenue making airport operation, and Propco 4 are UK registered companies. Both CFHL and BAL pay Business Rates to Hart District Council.

6.20 Neither the Promoter nor the Applicant has at no point sought to circumvent the law but has instead sought to operate within the law. It acknowledges the restrictions the common land places on the operation of the Airport and has sought and continues to seek to use appropriate legal remedies to remove those restrictions to, firstly, regularise the longstanding conflict that exists by virtue of having an aerodrome located on registered common land and secondly, to facilitate the Promoter's Vision for its future so that it can become profitable and continue to operate as a much needed general aviation airport.

6.21 Commercial Values of Release Land and Replacement Land

6.22 A number of representations refer to commercial gain and have made assertions regarding land values. The Applicant wishes to clarify the following in response. The Replacement Land, including the farm property was purchased for £2.4m in 2021. It is anticipated the buildings will be sold on for approximately £1.1m, leaving a price paid for the Replacement Land of £1.3m, or £36,827 per acre. By contrast, the airport land was purchased for £7.5m in 2015 and the total land area is approximately 247 acres, or £30,364 per acre. The Replacement Land is therefore of a similar, if not slightly greater

value. Of course, the Promoter intends to improve the airport in line with the Vision and would naturally expect the value of the Airport to rise as a result but at the present time, from a commercial value perspective, the land on both sites is comparable.

7 CONCLUSION

7.1 The Promoter and the Applicant are grateful for the overwhelming positive interest that has been shown in the Application. The Applicant has carefully considered all the submissions made in response to the Application against the relevant criteria for determining an application to deregister and exchange land set out in s.16 CA2006. The Applicant has also taken into account DEFRA's Common Land Consents Policy dated November 2015 which provides guidance on the relevant s.16 criteria. The Applicant submits that the Application meets all the relevant statutory criteria such that it can be determined that those with an interest in the land will be no worse off in consequence of the proposed exchange. The Replacement Land will provide an area of land of equivalent size but significantly it will be of equal, if not more advantageous, to the relevant interests for the following key reasons:

- (a) It is closer to the majority of residents in the nearest neighbourhoods.
- (b) It is closer to the residences which have common rights attached to them.
- (c) It is on the whole more directly accessible to both commoners and residents of the nearest neighbourhoods due to the network of surrounding PRoWs.
- (d) Unlike the present position with the Release Land, access will not be hindered by an operational airport and therefore, in practice it makes an additional 35.3 acres of common land available to commoners and residents of the nearest neighbourhoods.
- (e) It will have irrevocable s.193 rights of access attached to it.
- (f) It will provide benefit to the public interest in ecology and the conservation of the landscape through implementation the Environmental Management Plan which the Applicant will have a legal commitment to adhere to pursuant to the s.106 Unilateral Undertaking. The EMP has been designed to be sensitive to existing features of ecological, landscape and historic interest located on and surrounding the Replacement Land which will ensure that the land is properly managed and integrated with the surrounding common land.
- (g) The Replacement Land has better prospects for habitat creation, given that over 10 acres of the Release Land is covered by hard standing, and the remainder is mown regularly to comply with CAA regulations.