

Gatwick Airport Development Consent Order (DCO) process

Planning Policy Committee Thursday, 21 March 2024

Report of: Deputy Chief Executive

Purpose: For information

Publication status: Open

Wards affected: All

Executive summary:

This report is to update Members on the progress to date with the Development Consent Order (DCO) for Gatwick Airport Limited (GAL)'s Northern Runway Project (NRP). It outlines the immediate and longer-term requirements for the Council to respond to the DCO.

The key developments to note are that:

- The Council has attended the Preliminary Meeting and Specific Issue Hearings, plus contributed and submitted the following key documents:
 - Statement of Common Ground
 - Local Impact Report
 - Written Representation.
 - The Examining Authority published a 'Rule 8' letter on 8th March 2024 under the Planning Act 2008 – Section 89; and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rules 8, 9, and 13. The letter provides details of the Examination Timetable, deadline for Written Representations, notification of hearings, and other procedural matters.
 - The Council has re-entered the local authorities' legal partnership.
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This report supports the Council's priority of: Creating the homes, infrastructure and environment we need/ Supporting economic recovery in Tandridge/ Becoming a greener, more sustainable District

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Recommendation to Committee:

That progress on the Council's response to Gatwick Airport Ltd's DCO be noted.

1 Introduction

1.1 Gatwick Airport Limited (GAL) submitted an application for an Order to grant Development Consent for its Northern Runway Project. The Planning Inspectorate accepted the application.

1.2 Further information on the Development Consent Process, including written guidance and various videos, is available via the following weblink:

[The process | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk/the-process/)

1.3 GAL's submitted application documents, representations and procedural documentation are available to view on the following website:

[Gatwick Airport Northern Runway | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk/gatwick-airport-northern-runway/)

2 Preliminary Meeting and Specific Issue Hearings

2.1 Officers attended virtually or the livestream format of the preliminary meeting and specific issue hearings, which commenced on 27th February. Notes of the Preliminary Meeting and Issue Hearings plus the recordings of these sessions, can be viewed under the 'Documents' tab on the project webpage of the National Infrastructure Planning website (link above).

3 Examination Authority Deadline 1 (12th March).

The Council made several submissions at Deadline 1.

3.1 Statement of Common Ground

3.1.1 The Statement of Common Ground (SoCG) relates to matters between the Applicant and the Council. The Council has updated this document, supported by advice from the authorities' noise and air quality specialists, the latest version of the local authority SoCG has been submitted by the applicant to the Examination Authority for Deadline 1.

3.1.2 SoCGs are an established means in the planning process of allowing all parties to identify and focus on specific issues that may need to be considered during the Examination. The purpose and possible content of SoCG is detailed in the Department for Communities and Local Government's guidance entitled 'Planning Act 2008: examination of applications for development consent' (2015), stating:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached."

3.2 Local Impact Report

3.2.1 With a Development Consent Order application, the Examining Authority (the Planning Inspectorate) invites the relevant local authorities to prepare and submit a Local Impact Report (LIR). A LIR provides details of the likely impact of the proposed development on the authority's area (or any part of that area).

3.2.2 Surrey County Council, working in partnership with the Council and Mole Valley District Council and Reigate and Banstead Borough Council, has written a Joint Local Impact Report for the Surrey host authorities. It is a significant document at well over 300 pages and contains shared sections in relation to the impact across the whole of the County and it also contains specific sections in relation to the impact on Tandridge and its communities, informed by advice from our noise and air quality specialists.

3.3 Written Representation

3.3.1 The Council's Written Representation complements the LIR jointly prepared and submitted by the four Surrey host local authorities.

3.3.2 Whilst the Gatwick Northern Runway project has a range of impacts, both detrimental and potentially beneficial, the written representation highlights the subject areas of Air Quality and Noise within the LIR, which have the greatest adverse impact on Tandridge local communities and residents and are therefore of most relevance to the Council within the LIR.

4. Rule 8 letter

- 4.1 The Examining Authority published a 'Rule 8' letter on 8th March 2024 under the Planning Act 2008 – Section 89; and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rules 8, 9, and 13.
- 4.2 The Rule 8 letter provides important information about the examination of the application including:
- The Examination Timetable
 - An invitation to submit Written Representations
 - Other Procedural Decisions made by the Examining Authority
 - Format of Examination events
 - Notification of Hearings
- 4.3 The full letter has been included in Appendix A and Committee members may want to note in particular the Examination timetable moving forward.

5. Legal Partnership

- 5.1 The Council has re-entered the local authority legal partnership to secure legal advice and representation in connection with the joint interests of the Parties in relation to the application for the Gatwick Airport Northern Runway. This decision was made under the Council's urgency powers by the Deputy Chief Executive and Chief Legal Officer in consultation with the Chair of the Planning Policy Committee.
- 5.2 The local authority partnership will secure provision of legal advice and representation to the Parties associated with the Development Consent Order application by Gatwick Airport Limited in relation to the Northern Runway Project at Gatwick Airport. The supplier of these legal services is Sharpe Pritchard LLP. The parties in the partnership include 11 Local Authorities:
- West Sussex County Council
 - Surrey County Council
 - East Sussex County Council
 - Kent County Council
 - Tandridge District Council
 - Mole Valley District – (their inclusion is limited to advice on S106)
 - Reigate and Banstead Borough Council
 - Horsham District
 - Mid Sussex District Council
 - Crawley Borough Council
- 5.3 In addition to legal support throughout the examination process, key deadlines include draft legal agreement deadline of 26 March and finalised and signed 21st August.

- 5.4 We have been currently quoted an amount of £25,000 for the first tranche of legal support, it is anticipated that the full cost may well exceed this amount.
- 5.5 As proposed by Head of Legal Services and Deputy Chief Executive Officer a limit of £25k has been agreed for the first tranche of legal support and should further funding be needed a further report would be submitted to the Committee.

Key implications

Comments of the Chief Finance Officer

Additional spend incurred by the Committee will add to the 2023/24 overspend, or represent an unbudgeted cost in 2024/25 (depending on timing). By default, this will fall to be funded from contingency.

Whilst the available contingency (at time of writing) is sufficient to cover the forecast Council overspend for 2023/24, in addition to this proposal, the pressure on the contingency is increased and will require very careful management.

The S151 Officer supports the approach set out in the report and has requested a full reforecasting on expected Gatwick spend to take place.

Comments of the Head of Legal Services

The Council is a statutory consultee in the DCO process. It has and continues to have specific responsibilities as a 'host' authority, including: responding to the scoping request; responding to the formal consultation; discussing the DCO requirements and S106 Agreement; submitting written representations and participating in the examination process. The rationale for re-entering into the Legal Partnership consortium / forum was to ensure that the Council delivers its responsibilities for the current and remaining stages of the process.

Although the Council by itself will not be responsible for determining the application for consent, it can still play a significant role along with the other statutory consultees in the post-decision approvals process by becoming a 'relevant authority' for the discharge requirements in the DCO (if it is granted). The legislation allows there to be more than one relevant authority and the final decision rests with the Secretary of State but, if requested to do so by GAL, it would help to give the Council some control over implementation of the scheme and put forward any conditions in the s106 agreement. This is a controversial piece of work which needs a great deal of resources allocated to it. Unfortunately, the Council does not have a pool of in-house planning lawyers to draw from. Therefore a decision was made under urgency powers to externalise this legal work in order to protect the Council and its interests in the DCO process.

Equality

There are no equality impacts associated with this report.

Climate change

The implications of increased air traffic and new potential flight paths from Gatwick does have environmental implications. This is one of the main concerns for the Council and residents and will be an area where the Council will be vigilant in its responses including the Local Impact Report which was submitted on 12th March. However, for this report, which is focused on providing elected Members with an update on the DCO process and associated workflows, there are no direct climate change implications.

Appendices

Appendix A - Examining Authority's 'Rule 8' letter

Background papers

None

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