

# Gatwick DCO Update

## Planning Policy Committee Thursday, 19 September 2024

Report of: Deputy Chief Executive

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Purpose: For information

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Publication status: Open

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Wards affected: All

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### Executive summary:

The Examination into the proposed Gatwick Airport Development Consent Order (DCO) closed on 27<sup>th</sup> August 2024.

The Examining Authority (ExA) has until 27<sup>th</sup> November to make a recommendation to the Secretary of State for Transport regarding whether or not to make (approve) the DCO and, if so, the requirements (conditions) that would apply in the interests of avoiding and mitigating impacts.

If the DCO is made it would also be the subject of a s106 Legal Agreement that would require Gatwick Airport to undertake certain actions and to provide funds to mitigate and compensate for impacts.

The Council has submitted final representations to the ExA. In a Closing Statement the Joint Local Authorities (JLAs) state that the Councils can only support making the DCO if additional requirements are included.

The decision of the Secretary of State is anticipated on or before 27<sup>th</sup> February 2025.

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**This report supports the Council's priorities of:** Creating the homes, infrastructure and environment we need; supporting economic recovery in Tandridge; and becoming a greener, more sustainable District.

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### Recommendation to Committee:

That the report is noted.

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## **Reason for recommendation:**

The DCO Examination has now closed. The Report provides an update on key matters of interest to the Council with respect to the Gatwick Development Consent Order (DCO); and the remaining steps before a decision by the Secretary of State regarding whether or not the DCO should be made.

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## **Introduction and background**

### **1 Previous reports**

- 1.1 This Report follows the Report to Planning Policy Committee of March 21, 2024 (see [Agenda for Planning Policy Committee March 21, 2024](#)); and the Report to Planning Policy Committee of June 20, 2024 (see [Agenda for Planning Policy Committee June 20, 2024](#)).

### **2 The Proposal and key impacts**

- 2.1 The Development Consent Order (DCO), submitted by Gatwick Airport Limited (GAL), seeks permission to enable dual runway operations at Gatwick Airport through altering the existing northern runway; lifting restrictions on the use of the northern runway; and delivering the upgrades, additional facilities and infrastructure required to increase the passenger throughput capacity of the airport.
- 2.2 The significance of the project to the Council is the proposed increase in the number of flights and the increase in airport passengers. These would result in impacts on the District with respect to:
- noise
  - traffic / highways
  - air quality
  - the economy
  - communities
- 2.3 Full details of the project can be seen here: [Gatwick Airport Northern Runway - Project information](#)

### **3 Process**

- 3.1 The Examination closed 27<sup>th</sup> August 2024.
- 3.2 The Council has submitted their final representations to the Examining Authority (ExA). Details of final representations are provided in Section 5 of this Report.

- 3.3 The ExA has until 27<sup>th</sup> November 2024 to report to the Secretary of State for Transport (SoS) regarding whether or not to make (approve) the DCO.
- 4 The decision of the Secretary of State is anticipated on or before 27<sup>th</sup> February 2025.

## **5 DCO requirements**

- 5.1 The DCO would, if made, be the subject of legally binding requirements covering detailed design, highway design, landscaping, ecology, management of the water environment, construction phase management, waste management, archaeology, management of noise, access, air quality and greenhouse gases.
- 5.2 Full details of the Requirements as currently proposed are provided as a background paper [here](#).
- 5.3 It would be necessary for GAL to submit to the Host Authorities (Crawley Borough, West Sussex County, Surrey County, Reigate and Banstead Borough, Mole Valley District and Tandridge District) further details of how the requirements would be met. Crawley Borough Council would be the Planning Authority receiving the applications.
- 5.4 Tandridge and the other Host Authorities would be consultees, with the consultation process governed by a Memorandum of Understanding signed by all Authorities. The process of reviewing and signing off requirements would be funded by GAL through a Planning Performance Agreement.
- 5.5 The DCO would also be the subject of a s106 Legal Agreement that would require Gatwick Airport to undertake certain actions and to provide funds to mitigate and compensate for impacts.
- 5.6 The s106 has been negotiated by and agreed with the respective Chief Executive Officers of the JLAs. Provided in full as a background paper [here](#), the s106 Legal Agreement would cover measures to manage and reduce emissions to the air; measures to manage surface access to the airport; measures to manage and reduce noise impact; measures to enhance biodiversity; and a funded (by GAL) strategy to deliver social, health and economic benefits.
- 5.7 The s106 does not relate to any land in Tandridge District. Whilst benefits would accrue within the District it is not, therefore, necessary for the Council to be a signatory.

## **6 Representations by the Council to the Examination**

The Joint Local Authorities (JLAs)

- 6.1 Council Officers have engaged with the process working collaboratively with the other Surrey Councils (Surrey County Council, Mole Valley Borough Council, and Reigate and Banstead Borough Council); and working with the Local Authorities' legal partnership (the Joint Local Authorities – JLAs, comprising the Surrey Councils with West Sussex, East Sussex, and Kent County Councils; Crawley Borough, Mid Sussex and Horsham District Councils).

### **Closing Statement**

- 6.2 In their Closing Statement (provided in full as a background paper [here](#)) to the examination the Joint Local Authorities (JLAs) state that the Councils do not support making the DCO, with its proposed requirements, in its current form. The Statement asserts, however, that the inclusion of additional requirements by the Examining Authority can potentially make the DCO acceptable.

- 6.3 The concluding comment in the Closing Statement is that:

'The JLAs remain concerned that the ... project ... as promoted will impose unjustified adverse impacts on local communities, local businesses, and the receiving environment ... However, they have fully engaged with the Applicant ... to secure a better framework of controls ... and do not consider that the additional amendments to the Applicant's draft DCO put forward by the ExA go far enough to address all of their concerns. However, the JLAs have provided their own suggestions for additional controls that could meet those concerns and they are strongly recommended to the ExA and to the SoS. If any DCO that were to be made were to include all of the additional measures put forward by the JLAs, they would not then object to the making of a DCO on those terms.'

- 6.4 The Closing Statement sets out detailed consideration of the matters listed below. A summary of points is provided later in this Report:
- Environmentally Managed Growth
  - noise
  - Surface Access Commitments
  - air quality
  - climate change / greenhouse gases
  - landscape and visual
  - ecology and nature conservation
  - need and demand

## Environmentally Managed Growth

- 6.5 The JLAs formally proposed to the ExA an approach of 'Environmentally Managed Growth' (EMG), whereby any increase in passenger numbers would be dependent on the achievement of specific targets that would avoid, limit and reduce impacts of the project.
- 6.6 An EMG Framework would set environmental thresholds for sustainably manage growth of the airport. Full details of the EMG were provided as Appendix B of the Report to the Tandridge District Planning Policy Committee of June 20, 2024.
- 6.7 The Closing Statement asserts that the JLAs maintain the view that EMG is the most appropriate mechanism to ensure that the adverse impacts of the NRP on noise are satisfactorily mitigated. However, they have also sought to engage with the proposals put forward by the Applicant and the ExA. While these proposals, especially those of the ExA, go some way towards addressing the JLAs' concerns, they do not displace EMG as the preferred approach to noise.

## Statement of Common Ground

- 6.8 Tandridge District Council has also submitted a Statement of Common Ground (link: [SoCG](#)), which identifies matters agreed between Tandridge District and GAL; and matters that are not agreed. Matters not agreed relate to what the Council considers to be a shortfall in provision by GAL and the ExA to address air quality and noise impacts to an acceptable degree.

## Key unresolved matters

- 6.9 The JLAs assert that the proposals can only be acceptable if appropriate measures are secured for appropriate avoidance, mitigation, and compensation for adverse impacts.
- 6.10 Noting the proposed requirements and the provisions of the s106 Legal Agreement, the JLAs seek further measures and have made the following points.
- 6.11 With respect to noise
- further clarity and precision can be achieved with respect to noise contours to inform the occurrence and effect of additional awakenings;
  - measures should be applied to ensure GAL has a firm incentive for fleet transition to quieter aircraft as soon as possible;
  - to ensure democratic accountability provision should be given for a consultative role for local authorities in monitoring and ensuring appropriate management of noise, whereas GAL insists that the Civil Aviation Authority (CAA) carries out the role of Independent Air Noise Reviewer consulting LPAs as they consider necessary; and
  - that night noise controls should also be secured via the DCO.

#### 6.12 With respect to Surface Access Commitments

- the current requirements are insufficient to provide assurance that the mode share commitments will be delivered (move to more sustainable travel);
- clearer, and earlier, checks on whether mode share commitments will be achieved would provide a more robust set of controls to deliver the required outcomes.

#### 6.13 With respect to Air Quality

- the JLAs remain concerned about airport exclusions from statutory nuisance proceedings

#### 6.14 With respect to Greenhouses gases

- the JLAs support the imposition of a further requirement setting a carbon cap and sanctions on future growth if the targets are not met,

#### 6.15 With respect to landscape and visual matters

- the JLAs have suggested amendments to the DCO that would provide a mechanism to secure the required information post-consent for landscape matters

#### 6.16 With respect to ecology and nature conservation

- the JLAs have raised several outstanding concerns regarding the approach of GAL to assessing impacts, including:
  - (i) a failure to adopt a landscape-scale approach in the assessments, including looking at suitable land off-site where mitigation could be provided;
  - (ii) failure to provide adequate mitigation/compensation for the loss of 3.12 ha of woodland (loss in Reigate and Banstead Borough);
  - (iii) failure to include sufficient compensatory measures to offset impacts on bats;
  - (iv) non-compliance with current Biodiversity Net Gain (BNG) methodology on the calculation of BNG;
  - (v) failure to take opportunities for biodiversity enhancement within the Order limits; and
  - (vi) failure to take a worst-case approach to tree-loss.

#### 6.17 With respect to need and demand:

- the JLAs recognise that Gatwick Airport, as currently configured, is constrained as to the numbers of passengers that can be accommodated, especially at peak times, and, to that extent, there is a need case for expanding its capacity;
- the Closing Statement asserts, however, that economic benefits remain unclear and uncertain, especially as regards their extent and whether there are any countervailing economic disbenefits, because of the above concerns and, as a result, limited weight can be given to the benefits side of the planning balance, notwithstanding the JLAs acceptance of a generalised need for Gatwick to expand in order to address its capacity constraints.

## **7 Further representations**

### Planning Policy Performance Agreement

- 7.1 GAL would fund LPA resources that are needed to ensure efficient and effective discussion and processing of applications to discharge requirements of the DCO.
- 7.2 Crawley Borough Council (CBC) would be the LPA for these applications with other Host Authorities, including Tandridge District Council being consultees.
- 7.3 For Tandridge this means that Officer resource would be funded for time spent reviewing and commenting on consultations from CBC.
- 7.4 Tandridge will have an opportunity to review and comment on the draft PPA before it is agreed.

### Request for comments on any further amendments to the DCO

- 7.5 The SoS may seek the opinion of the Council should they propose to make the DCO and that in making it the SoS seeks to amend or add requirements.
- 7.6 During the Examination a response on such a consultation would have been made collectively and with the advice of the commissioned consultants and / or Sharpe Pritchard.

## **8 Budget**

- 8.1 The Council has employed one Officer; has made financial contributions to the Joint Legal Partnership; and has made financial contributions to the Joint Local Authority contract which includes specialist advice on air quality and noise.
- 8.2 The level of contributions agreed at previous Committee Meetings is illustrated in Table 1, below.
- 8.3 As an update to Table 1 the Council is in the process of paying a fee of £6,015.63 to AECOM; will imminently receive an invoice payable to York Aviation for approximately £2,320.00; and has an outstanding amount payable to Sharpe Pritchard estimated to be £20,000.00.
- 8.4 The final total cannot yet be exactly quantified, but it is likely that all the outstanding £31k in Table 1 is accounted for.
- 8.5 From 1 October the Gatwick DCO Officer post will no longer exist and the responsibility will sit with the Planning Policy Team.

8.6 It is proposed that any further engagement and representation for TDC with respect to the PPA and any other matters, including responding to consultation by the SoS, is undertaken by a Planning Policy Officer.

| <b>Table 1: Gatwick DCO Expenditure</b> |   | Actual expenditure to 31 March 2024 | Estimated expenditure 1 April 24 onwards | Totals     |
|---|---|-------------------------------------|--|------------|
|   |   | £'000s                              | £'000s                                   | £'000s     |
| <b>Gross Expenditure</b>                |   | <b>a</b>                            | <b>b</b>                                 | <b>a+b</b> |
| 1                                       | Socio-Economic Impacts                      | 22                                  | 0  | 22         |
| 2                                       | Joint Local Authority Partnership AECOM     | 9                                   | 14                                       | 23         |
| 3                                       | Air Quality and Noise Consultants           | 7                                   | 8  | 15         |
| 4                                       | Other Gatwick DCO expenditure               | 5                                   | 9  | 14         |
| 5                                       | Grant - PPA receipt                         | (19)                                |  | (19)       |
| <b>Total Gross Expenditure</b>          |   | <b>24</b>                           | <b>31</b>                                | <b>55</b>  |
| <b>Funded by</b>                        |   | <b>a</b>                            | <b>b</b>                                 | <b>a+b</b> |
| 6                                       | Planning Policy Committee decision 23.03.23 | 30                                  |  | 30         |
| 7                                       | Tandridge Council Urgent decision 09/23     | 15                                  |  | 15         |
| 8                                       | Planning Policy Committee decision 21.09.23 | 10                                  |  | 10         |
|   |   |                                     |  | 0          |
| <b>Total Gross Funding</b>              |   | <b>55</b>                           | <b>0</b>                                 | <b>55</b>  |

## Key implications

### Comments of the Chief Finance Officer

The Council has an obligation to secure value for money for tax payers. This is largely achieved by working with other affected authorities to reduce duplicated work and take advantage of economies of scale. This can be supplemented by TDC specific interventions where appropriate.

The costs relating to the DCO consist of officer time included in the budget and third party legal support to through the consortium, which officers are in the process of quantifying in consultation with the consortium lead authority. The cost implications are set out in the report.

### Comments of the Head of Legal Services

As this is an update report there are no direct legal implications arising from this report. The Council has worked collaboratively with other host authorities to ensure common issues and concerns have been raised collectively to strengthen the voice and ensure these are fully considered and addressed by Gatwick in their proposals. It remains to be seen if any of the concerns raised will be taken into consideration.



## **Equality**

Equality Impact Assessment is an integral element of the DCO process. It is the responsibility of GAL and the ExA to undertake, review and report on how equality has been properly taken into account in the process and in making a decision.

Through additional engagement Officers have sought to support interested parties in making representations to the Examining Authority.

## **Climate change**

There are significant implications to climate change associated with air travel and the operation of Gatwick Airport. This is a matter for the Examining Authority to consider. The Council has made representations to the ExA on this matter.

There are no significant environmental / sustainability implications associated with this Report.

## **Appendices**

None.

## **Background papers**

[Requirements of the DCO](#)

[S106 Legal Agreement](#)

[Closing Statement of the Joint Local Authorities](#)

[Statement of Common Ground \(TDC and Gatwick Airport Limited\)](#)

Full details of the proposed development, associated evidence and engagement with all parties are available on the website of the Planning Inspectorate:

[Gatwick Airport Northern Runway - Project information](#)

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