

Gatwick Airport Development Consent Order (DCO) Section 42 consultation

Planning Policy Committee Thursday, 25 November 2021

Report of: Chief Planning Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

The statutory Section 42 consultation on Gatwick Airport's Preferred Masterplan for the future use of their northern runway, runs between 9 September 2021 and 1 December 2021. This is a statutory public consultation and is in advance of Gatwick Airport Ltd (GAL) submitting an application for a Development Consent Order (DCO) to the Planning Inspectorate (PINS) for examination under the provisions of the Planning Act 2008 for determining Nationally Significant Infrastructure Projects (NSIP).

The draft consultation response attached at Appendix A has been produced jointly by a number of Council officers and in consultation with the Gatwick DCO Member and Officer Group which has been established to support the ongoing process. The response highlights a range of specific issues that have been identified as part of reviewing the extensive documents which are being consulted on and also those which are of relevance to our district, our residents and our businesses.

In addition, this report presents Terms of Reference (Appendix B), prepared with the input of the Gatwick DCO member and officer group for agreement, to aid the governance and operations of the group, ensuring the Council can respond to the fluid and swift DCO process.

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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Recommendations to Committee:

It is recommended that:

- A. the proposed response, at Appendix A, be submitted to Gatwick Airport Limited in response to the Section 42 consultation which closes on 1 December 2021; and
- B. Terms of Reference for the for the Gatwick DCO member and officer group attached at Appendix B be agreed.

Reason for recommendation:

The potential impacts of the Gatwick Development Consent Order and the proposed usage of their northern runway, cannot be under estimated and could affect our district, residents and businesses in a variety of ways. As such, sharing the proposed Section 42 consultation response with the committee ensures Members are kept involved at this early stage of the process and made aware of particular issues which have been identified.

In response to the level of work stemming from the DCO process and the Gatwick led timescales, an officer and member group has been established in accordance with the resolution of the Planning Policy Committee on 23 September 2021. This group has an important role to secure ongoing discussion and an exchange of information on the DCO and relevant Gatwick matters. Terms of Reference have been prepared for the group to enable it to operate in a fluid and responsive way to the process which the Council are required to be active in.

1.0 Introduction and background

- 1.1 Gatwick's northern runway proposals are classified as an NSIP and permission requires the grant of a DCO under the Planning Act 2008. The Planning Inspectorate (PINS) will examine the DCO application and make a recommendation to the Secretary of State for Transport, who will make the decision on whether to grant or refuse permission. The DCO will be assessed against the Airports National Policy Statement (ANPS), which provides the policy framework for operational changes to airports. The DCO is expected to be submitted in 2022.
- 1.2 The consultation provides a vast amount of supporting technical information that will be required for the DCO submission. The DCO process front loads much of the engagement that scheme applicants are required to have with statutory consultees. Tandridge Council is a statutory consultee and a 'host authority' for the scheme, which impacts much of the County and authorities in West Sussex. The Council's engagement on the proposals has been extensive and ongoing since before the pandemic and members and officers remain active in a variety of related groups and in joint discussions with colleagues in other authorities, including: GATCOM, Surrey Officers Group, and Gatwick Officers Group (GOG). The consultation response at Appendix A covers many of the concerns and issues that have been raised during this ongoing process.

2.0 Draft Response

2.1 Below is a summary of the more significant issues which are identified as relevant to the District, alongside those broader strategic/compliance concerns which we need to be aware of as the process moves forward:

- (i) The proposed DCO includes a lot of ancillary development including offices, hotel accommodation and car parking. Questions are raised as to whether, in accordance with the Planning Act 2008, this is justified, associated development, or whether separate planning applications should be submitted to the relevant authorities for such development. This is potentially a non-compliance matter.
- (ii) Concerns are raised over GAL's commitment to mitigating climate change and whether they've properly considered local and cumulative impacts sufficiently. In addition, information provided as part of the consultation will unlikely contribute to national climate related targets including meeting carbon budgets. It is unclear how GAL intend to review climate impacts as the process evolves, technical details are changed and refined and as government release further details of their climate agenda.
- (iii) In addition to issues with climate change mitigation, details regarding wider environmental mitigation measures are often lacking and needs for interventions are seemingly dismissed, particularly for the longer term beyond the build phase. Comments are made regarding GALs inability to provide assurance that mitigation has been properly accounted for and is therefore considered to be ineffective. With such a significant scheme, there are a lot of opportunities to be innovative and forward thinking with mitigation, however, this does not appear.
- (iv) The baseline data and forecasting for economics, passenger needs, and general growth are strongly questioned as the data presented in GAL's arguments are based upon pre-pandemic figures. While it is not possible to say that the pandemic has altered things so significantly that a need no longer exists, it is also not legitimate to argue that needs and growth forecasts from before the pandemic remain accurate. Needs and benefit assessments need to reflect long term changes to peoples travelling habits and working arrangements which have altered as a result of not just the pandemic, but also Brexit and a commitment from GAL to carry out such a review of its data is necessary.

- (v) The Future Airspace Implementation – South, (FASI-S), is a separate process to the DCO being sought by Gatwick and all airports must undergo an airspace review as mandated by central government via the Civil Aviation Authority's [Airspace Modernisation Strategy](#) (2018). The FASI project will seek to modernise flight paths across the country with the intention to use airspace more efficiently. This could mean an increase in the number of flights that use existing flight paths and the creation of new ones. As such the FASI programme has potentially significant ramifications for the district and the number of flights which will fly over our district, regardless of the DCO. While it is accepted that the timelines for FASI and the DCO do not directly align, the resultant cumulative impact of the two projects could mean that the DCO is submitted and considered without proper regard for aircraft movements, noise and air quality etc, it is not sufficient to simply claim that their projects are at the same stage. By the end of the DCO build programme, our airspace could be very different than we are currently being advised of by GAL and some assurance around potential alignments should be given. Similar concerns are raised around the cumulative impacts of Heathrow Airport too, but it is understood that their timescales have slipped considerably and are more legitimately out of scope for the DCO at this time. Officers are involved in the FASI programme and this is just starting to re-commence work following the pandemic.
- (vi) Concerns regarding plans for road and rail are raised on several fronts but particularly with regard to the impacts of the need to upgrade East Croydon Station and the Windmill junction to increase rail movements into London which Gatwick will be significantly contributing to. But also, regarding the timescales for road improvements which are back phased, despite the obvious increase on construction traffic and associated road movements.
- (vii) There are questions regarding the build out schedule for the project, with hotels, car parking and other ancillary development coming forward much earlier in the programme, despite the runway not being in operation. As such, clarity is needed to set out how development can be justified.
- (viii) There is little regard to the emerging Surrey Hills Area of Outstanding Natural Beauty (AONB) review. Many districts and boroughs affected by the DCO are also part of AONB review process and this will likely require GAL to review its landscape assessments. It is not clear if the expanded AONB will have a direct impact on the plans for the DCO, but this needs to be considered for completeness.
- (ix) There is a concern that GAL assume that housing for workers will be subsumed by neighbouring authorities and have based their assumption on the uplifted numbers the Government is expecting local authorities to deliver. This excludes work undertaken by authorities to identify key issues such as market signals, affordable housing or constraints on housing supply. The basis for this should not be solely 'numbers-based'.

- (x) The consultation process, has not been particularly inviting, with insufficient technical information provided by GAL in advance of the publication of the consultation. This has meant that officers were not given the opportunity to challenge assumptions and provide meaningful feedback to influence the proposed development. There has also been criticism on the mobile project office that has been travelling to local communities and the limited information available for those wishing to engage.

2.2 Please note that Appendix A may not always include a detailed response in some technical areas as these are being prepared and submitted by matter specialists across the County and externally. Examples of where this occurs are, but not limited to:

- Transport - Surrey County Council, supported by Atkins
- Socio-economic factors – York Aviation, on behalf of the districts and boroughs
- Noise, vibration and air quality - Environmental Health shared service supported by external consultants
- Flooding and water related matters – Surrey County Council as the Lead Local Flooding Authority
- Heritage and archaeology – Surrey County Council

2.3 It is the responsibility of GAL to ensure that they can demonstrate how they have considered comments received and officers will keep this under review throughout the DCO process. We are still at a relatively early stage of the formal process and there will be other opportunities for the Council to contribute both formally and through working groups. In addition, the Council can also still refine the areas where it wishes to focus its position as the DCO moves forward. Issues that remain unresolved at the point of examination may form the basis of the Council's submissions to the examination whether this be independently or jointly with other authorities.

3.0 Budget

3.1 While there are no direct financial implications of this report, it is possible that going forward, the Council may need to secure external advice. This could be cost shared with other authorities where there is a shared view on a matter and the opportunity arises. However, there is currently no budget set aside for Gatwick related technical advice or external legal advice etc and this will need to be a factor for consideration in ongoing budget setting for 2022/23.

4.0 Other options considered

4.1 While the Council could choose not to engage in the process it is a statutory consultee and the significance of the DCO negates this as an option. It is vital that the Council feed in for the benefit of residents, businesses and the environment.

5.0 Consultation

- 5.1 On 20 October 2021, members attended a virtual briefing session with GAL who presented on the proposals for the DCO and answered a range of questions. Some of the questions raised and answers given have influenced the consultation response.
- 5.2 In addition and following on from the resolution of the Planning Policy Committee held on 23 September 2021, a Gatwick member and officer group (GMOG) has been established and had its first meeting on 4 November 2021. The main purpose of the first meeting was to determine governance arrangements and how the group would best operate. Terms of Reference were also prepared and are before the committee, at Appendix B, to agree.
- 5.3 There was a thorough exchange of information between officers and members regarding feedback on where officers had gotten in terms of the response and also feedback from members on matters which they had been informed of regarding Gatwick. In the intervening period between the meeting and the committee, Officers have also shared draft responses with the Members on GMOG.
- 5.4 Notes of the meeting were circulated to the group members and Group Leaders on 9 November 2021.

Key implications

Comments of the Chief Finance Officer

As stated earlier, there are no direct budget implications arising from this report. However, there is potential for additional expenditure to be incurred in the future, which could require additional resource.

These costs will be shown in the monthly monitoring and action must be taken to reduce the impact of any future spend. The Council has a duty to ensure its expenditure does not exceed its resources.

Comments of the Head of Legal Services

There are no identifiable legal implications in making the response as set out in this report. The consultation currently being held by GAL is a valuable opportunity for stakeholders to express their views on the proposed options for expanding aviation capacity close to the District. Under section 42 of Planning Act 2008 ('the Act') the Council along with other local authorities must be consulted about whether an applicant, in this instance GAL has complied with their duties. In addition, under the Act GAL must notify each consultee of the deadline for receipt of comments in relation to the consultation which must not be earlier than 28 days after the consultation documents are received. The Councils can confirm that this provision has been met as the consultation period is from the 9 September 2021 to 1 December 2021.

Equality

There are no direct equality impacts resulting from this committee report, however GAL are required to undertake an Equalities Impact Assessment and keep it under review throughout the process.

Climate change

This DCO, if it goes ahead, will have an impact on the climate by default of its focus to increase air traffic movements and associated journeys in order to travel to the airport. This is wide spread concern that is being raised by most, if not all authorities involved in the Gatwick work.

Appendices

Appendix A - Tandridge District Council: Draft Section 42 response to Gatwick Airport Limited.

Appendix B - Gatwick DCO member and officer group: Terms of Reference.

Background papers

None.

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