

Gatwick Airport Development Consent Order (DCO) consultation process update

Planning Policy Committee – 23 March 2023

Report of: Interim Chief Planning Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

This report sets out the current position with the DCO process for the information of Members of the Committee and makes recommendations to ensure Members can be engaged with the process and decision making on behalf of the Council going forward.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need but prudently managing financial resources and working in the best interest of Tandridge residents.

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Recommendation to Committee:

It is recommended that:

- i) the Gatwick Airport Working Group of Members and Officers be reactivated to ensure adequate engagement with the DCO process and decision making on behalf of the Council going forward; and
 - ii) that while the DCO process is underway update reports on progress are made to each meeting of this Committee so that Members are aware of latest developments and can engage in the DCO process.
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Reason for recommendation:

To ensure Members have information about the DCO process and are engaged with the process and associated decision making on behalf of the Council going forward.

Background

1. Gatwick Airport Limited ('the Developer') intends to submit an application for development consent to the Secretary of State in relation to the Northern Runway Project. The proposal is a Nationally Significant Infrastructure Project (NSIP) requiring a Development Consent Order (DCO) from the Secretary of State (rather than planning permission from the local planning authority).
2. The Council as well as nine other County and District authorities are directly affected by this proposal and have been working on understanding their plans and how this will impact residents/businesses near to the airport. The Developer has stated that it intends to submit the Development Consent Order ('DCO') to the Inspectorate at the end of May 2023 and if accepted, will look to commence examination around September 2023.

What is a Development Consent Order?

3. A summary of what the DCO process entails is set out in **Appendix A**.
4. In 2012, the Planning Inspectorate (PINS) became the agency responsible for operating the planning process for nationally significant infrastructure projects (NSIP). NSIPs are usually large-scale developments such as new harbours, power generating stations, and electricity transmission lines, that require 'development consent' from the relevant Secretary of State under the Development Consent Order (DCO) process, rather than planning permission from the relevant planning authority
5. Effectively, the Planning Inspectorate acts as the planning authority and receives a DCO, determines if the DCO is duly made and then considers a DCO application through a very formalised public inquiry process. The Planning Inspectorate then makes a recommendation whether the DCO should be granted to a Secretary of State for a central government department responsible for that part of national infrastructure.
6. The important point to note here is that local authorities are only a statutory consultee (albeit an important consultee) in the DCO process and their voice needs to be heard on behalf of local residents.
7. Another point to note is that the whole DCO process is "acronym driven" as to stages etc and Officers will try to provide clarity.

Northern Runway Project

8. The NRP comprises the following works, most of which would be contained within the existing airport boundary:
 - repositioning of the Northern Runway (12m north) and reconfiguration of taxiways. Smaller aircraft only would depart from the Northern Runway and would continue to use existing flightpaths;
 - expansion of both the North and South terminal buildings;
 - a new Pier (no.7) and amendments to aircraft stands;
 - other airport facilities including a waste facility, a new hangar, and new fire training grounds;
 - new office space (9,000m² floorspace) and 1,000 new hotel rooms over three new hotels;
 - an additional 18,500 car parking spaces;
 - road improvement works to the South Terminal Roundabout, North Terminal Roundabout, and Longbridge roundabout; and
 - environmental and mitigation measures, including new runoff and storage ponds and flood compensation areas

Current Position

9. After some months of low level activity relating to the Gatwick Northern Runway DCO there is now a considerable level of activity building up which looks set to continue for the remainder of 2023 and well into 2024 as the DCO goes through its statutory process.
10. The current timetable Gatwick Airport Ltd (GAL) are following for the DCO process to bring the northern runway into use and associated new access roads to the airport and multi-storey car parks and hotel and other development is as follows:
 - End of May 2023 GAL submit DCO to Planning Inspectorate which will begin a formal process leading to its determination.
 - 28 days from submission, PINS either accept or reject DCO application based on procedural and evidential criteria.
 - If DCO application accepted, GAL publish notice of its submission and forthcoming public inquiry.
 - September 2023, PINS hold a preliminary meeting with all interested parties (effectively start of a public inquiry process).
 - Public inquiry taking 6 months concluding March 2024.
 - PINS prepare a report and recommendation to the Secretary of State for DHLUC up to June 2024.

Consortium of Local Authorities

11. Tandridge District Council is a member of a consortium of 10 local authorities in Surrey, Kent, East Sussex and West Sussex that have come together to ensure their interests are represented at the DCO inquiry. Different authorities have different priorities. Depending on individual priorities, legal and consultant's costs are shared equitably among the member authorities.
12. There are three standing local authority Working Groups:
 - A Leaders' working group
 - A Legal working group
 - A Planning Officers' working group.
13. Each working group has decision making powers on behalf of the consortium as a whole.

Information and Financial Implications

14. There are currently concerns on behalf of the consortium with GALs approach to the DCO process, particularly the adequacy of information gathering and sharing, and its financial contribution to the expenses of the local authorities in the consortium. The Leaders Working Group is intending to write to GAL setting out these concerns.
15. Some of the consortium's costs will be offset by grant funding from DLUHC. Given the length of the DCO process, there will be costs falling on all members of the consortium arising from the need to continue employing expert consultants and appointing a Parliamentary Agent and a King's Counsel to represent the consortium at the DCO inquiry. As a matter of priority, more certainty around the financial burden for each local authority is needed.

Key Areas of Concern for Tandridge District Council

16. The developments being proposed by GAL, although outside of the District area, are very close and have a range of potential impacts upon the District including:
 - Strategic transportation implications with the need for a surface access strategy covering rail, bus and private car access to an expanded airport which, if not achieved, means more car journeys to the airport and potential congestion on roads around the District
 - Noise from an increased number of aircraft overflying the District's airspace and its settlements (such as Lingfield, Smallfield and Horne)
 - Increased risk of flooding such as surface water from the airport will be drained into the District's rivers and streams

- Economically particularly in respect of increased employment opportunities
- Increased demand for housing local to the expanded airport
- Pressure for expanded off-airport car parking development.

17. These are all matters that the Council with its consortium partners, and with the assistance of expert consultants and the appointed legal provider, Messrs Sharpe Pritchard, must ensure are fully and adequately addressed during the DCO process. Likewise, the District Council must ensure that its parish councils and local residents have opportunities to express their concerns during the DCO process. The District Council as lead must provide that all local viewpoints are expressed.

Member Working Group and Planning Policy Committee

18. At the previous stage of consultation on the DCO, the Council had a Gatwick Working Group of Members to provide advice and guidance to Officers. Given the imminence of the submission of the DCO to PINS, Officers recommend that the Gatwick Working Group of Members should be reactivated. Currently, the Leader of the Council sits on the consortium Leaders Working Group, the Head of Legal on the consortium Legal Working Group and Interim Head of Planning on the Planning Officers Working Group. It would seem appropriate that the aforementioned participate in the Council's Gatwick Working Group. This will ensure that members of the Gatwick Working Group receive the most up to date information on the workings of the individual consortiums "across the board" and that operational aspects of the project delivery in terms of scope, time, and costs are discussed.

19. Furthermore, it is appropriate as GAL moves forward with the submission and public examination of the DCO process that this Committee receive updates at each of its future meetings on the meetings of the Gatwick Working Group and matters of particular concern for the Council and its residents.

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. More detailed financial implications are set out in a part 2 report in order to preserve the Council's commercial interests.

Comments of the Head of Legal Services

The Council is a statutory consultee in the DCO process. The Planning Act 2008, Part 5, Chapter 2 ('the Act') sets out the consultation requirements including the duty to consult with the local community, statutory consultees, landowners, local authorities, and other non-statutory consultees on the proposed development. Section 49 of the Act requires the applicant to have regard to responses received as a result of statutory consultation. Section 37(3)(c) requires that an application for a DCO must be accompanied by a consultation report. Section 50 of the Act requires the applicant to have regard to any guidance issued by the Secretary of State about pre-application procedure.

During the project, the Council has specific responsibilities including: being a consultee on various aspects of the project; discussing the DCO requirements and various legal agreements with third parties and submitting written representations and participating in the examination process. The recommendations in this report seek to ensure that the Council delivers its responsibilities for the current and remaining stages of the project.

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

However, Members should note that an Equality Impact Assessment is currently being completed ahead of DCO submission. Once completed, Members should read and consider the Equalities Impact Assessment in order to satisfy themselves as decision makers that due regard has been given.

Climate change

There are potentially significant environmental / sustainability implications associated with GAL proposal for expansion of Gatwick Airport and this report seeks to put in place internal Council procedures to ensure these implications are addressed on behalf of residents of the District.

Appendices

Appendix A: _Planning Act 2008: Development Consent Order Fact Sheet

Background papers

None.

Appendix A

Planning Act 2008: Development Consent Order Fact Sheet

Q. What is a Nationally Significant Infrastructure Project?

A: Nationally Significant Infrastructure Projects (“NSIPs”) are major infrastructure developments in [England and Wales](#). These include projects such as power plants, large renewable energy projects, new airports, airport extensions and major road projects.

Q. Who decides a Nationally Significant Infrastructure Project?

A: A Development Consent Order (“DCO”) application for consent to undertake a NSIP is made to the Planning Inspectorate who will consider the application and make a recommendation to the Secretary of State, who will decide on whether development consent should be granted for the proposed scheme.

Q. How does the NSIP process work?

A. The NSIP process comprises six key stages, covering pre-application, acceptance, pre-examination, examination, decision and post-decision stages. Upon receipt of an application for development consent, the Planning Inspectorate has 28 days to decide whether or not to accept it. There is a period of 6 months for the Planning Inspectorate to examine an application and 3 months for the Planning Inspectorate to make its recommendation to the Secretary of State. The Secretary of State has a further period of 3 months in which to issue a decision. From accepting an application to making a decision, the whole process should last in the region of 15 months. Previously, the average time taken for major applications was around 2 years.

Q. How do local authorities work together if a NSIP covers a number of local authorities?

A. The Planning Inspectorate encourages dialogue between local authorities affected by a NSIP. Ultimately, it is for the particular local authority to judge how best to respond to the Planning Inspectorate when notified of a NSIP. However, if several local authorities are affected by a proposal, they may wish to discuss and co-ordinate representations, if this is the clearest and most effective means of conveying their views.