



Meeting note

File reference

Status FINAL
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Date 14 August 2015

Meeting with Gatwick Airport Limited
Venue Temple Quay House, Temple Quay, Bristol, BS1 6PN

Attendees **Gatwick Airport Limited**
Alison Addy
Daniel Smyth
Robert Matthews

The Planning Inspectorate
Mark Wilson
Robert Ranger
Sheila Twidle
Lynne Franklin

Meeting objectives Meeting to discuss Gatwick's current position following the Airports Commission recommendation and activity since last meeting, and planned activity going forward.

Circulation All attendees.

Summary of key points discussed and advice given:

Attendees were reminded about the openness policy and that any advice given will be recorded and placed on the Planning Inspectorate's (PINS) website in the form of a meeting note. PINS explained that any advice given does not constitute legal advice upon which applicants (or others) should rely.

Introductions

Gatwick Airport (GA) and PINS introduced their delegates. GA noted the publication of the Airports Commission report, and its recommendation in favour of the option for a North West Runway at Heathrow in preference to a second runway at Gatwick or the Heathrow Hub proposal to extend northern runway at Heathrow.

GA explained that they have a number of concerns about the report and continue to be of the view that the proposed scheme at Heathrow was not likely to be capable of being lawfully implemented; they therefore intend to continue to prepare for an

application for a second runway at Gatwick which they anticipate will be supported by emerging government policy.

GA do not anticipate the need to submit any NSIP applications that are not related to a second runway, and would not submit an application if policy were to emerge in favour of meeting a identified national need for capacity at Heathrow; although they would have issues with that policy and are likely to contribute to any examination for an application at Heathrow. They reiterated that they do not believe the Heathrow scheme can be delivered.

In the event that government policy identifies a need for capacity but does not prescribe where that need should be met, Gatwick believe they would be well-placed to make an application.

PINS advised that they are not a policy-setting body; the Government has not yet responded to the airports commission report and at present, there is no National Policy Statement for airport development. PINS is happy to provide procedural advice on the 2008 Act process to anyone who requests it.

Update on project programme

GA noted that the Airports Commission did not recommend a consenting route for new airport development; both the Hybrid Bill and 2008 Act processes could provide consent for their proposed scheme. GA intends to be led by government policy on the most appropriate consenting route. While they are content to use either route, they consider that a second runway at Gatwick could be dealt with under the Planning Act process without the need for government to promote a Hybrid Bill.

GA propose to begin their statutory pre-application consultation early next year (2016); and are in ongoing discussion with host authorities in parallel with the preparation of the Community Consultation strategy. Given the scale of the project, they expect that more than one round of statutory consultation would be necessary, and sought PINS advice on whether multiple Statements of Community Consultation (SoCC) would be appropriate.

PINS advised that it is not necessary to produce a SoCC at each stage of a multi-stage consultation; rather a single SoCC should provide triggers and mechanisms to review a SoCC if circumstances dictate it is necessary. The SoCC can set out a flexible approach (within reason) which would allow for additional or different consultation activities to take place, following discussion with the relevant Council(s). For example, if a targeted consultation event needs to take place to address issues arising in a specific location or with a specific part of the community.

Land rights and advice on the timing of the S46 notification

GA will notify the SoS under S46 before beginning consultation with statutory consultees under S42. However, following PINS published advice, GA is engaging with statutory consultees in advance of formal consultation under S42.

GA explained that they anticipate a need to enter land for the purposes of surveys, and will endeavour to secure the required access by agreement.

However they explained that, in order to protect against the possibility that agreement cannot be reached, they are also preparing for possible applications under S53 to enter onto land for the purposes of surveys. They asked if S46 notification and entry of the project on the programme of forthcoming applications was a prerequisite for a successful application under S53; and if PINS had any other advice.

PINS advised that it is a prerequisite for a successful application under S53 that the applicant be promoting a NSIP; with a reasonable prospect of coming forward and making an application for a Development Consent Order. Notice under S46 is not itself a prerequisite, but it helps to demonstrate the reasonable prospect of a DCO application. If notice under S46 has not been given at the time of the S53 application then PINS advises that this should be explained.

Other matters to consider when making an application under S53 include the importance of correctly identifying the parties with an interest in the land and maintaining clear records of correspondence and negotiations with those parties, to demonstrate that good faith negotiations have not been successful. Common mistakes include corresponding with multiple parties (such as married couples) in a single item of correspondence, or with agents who may not be acting on instructions from all parties with an interest in the land. It is absolutely critical that applications under S53 are supported by comprehensive documentary evidence; and preparing for such an application should include keeping rigorous records of discussions.

It is also helpful to consider if the application will achieve what is intended; having regard to any land over which it is necessary to cross in order to access land where the surveys are to take place, for example. Thought should also be given to whether any other licences, for example in relation to protected species, would be necessary to carry out the surveys.

GA asked if it was appropriate to allow 3 months in their project plan for determination of an application under S53. PINS advised that whilst 3 months was achievable, there was no statutory period for consideration of a S53 application and the time taken was highly dependent upon the quality of the supporting information submitted with the application; 3 months may therefore be optimistic for the purposes of project planning.

GA asked how the compensation payable in the event that access is required under S53 is calculated. PINS advised that S53 establishes a right to compensation in the event that damage is caused when exercising the right to enter land and prescribes the route for determining any disputes (through the Upper Tribunal). How GA might handle claims from individual landowners for compensation for damage (and the quantum) would be up to GA although it was presumed that this would be in accordance with standard compensation code principles.

PINS further explained that S46 notification is not required to enter a project on the PINS programme of forthcoming applications; PINS will publish the pre-application status of any project where (acknowledging an element of subjectivity) an application is likely to come forward and it is in the public interest to do so.

PINS did not propose that a second runway at Gatwick be entered on the programme of forthcoming applications at the present time. GA agreed that this was not yet appropriate.

Effective consultation and best practice

GA invited any observations on best practice from other projects of scale, to help inform their consultation strategy.

PINS advised that, in addition to the advice and guidance published on the National Infrastructure Planning website, PINS had noted the value on large projects of proactively contacting key stakeholders such as schools, sheltered housing, community groups or residential buildings to address concerns or identify matters at issue. This allows those matters to be fed into consultation rather than finding that their comments emerge at examination.

Information about the location of sensitive receptors likely to be affected by construction and operational activities can be sourced from the ongoing EIA survey / material such as the PEIR and more generally. Applicants should not assume everyone will attend consultation events. There is a need to speak directly to institutions and organisations that can provide important information and challenge assumptions applicants may have about the day to day operational activities of these institutions. A small "direct contact team" can find out information quickly and efficiently which can have a big impact on the matters and information contained in application documents and thereafter a more streamlined examination.

PINS also advised that publicity under S48 (the publication of newspaper notices) is generally more effective if done later in the consultation process, when the scheme is more fully conceived. Early publicity can produce less valuable responses than early consultation can.

Associated Development

GA noted that there may be a need to include replacement employment land in the scheme; they sought advice on whether or not, in principle, replacement employment land could be associated development.

PINS advised that there was precedent for providing alternative facilities for specific displaced businesses within a DCO as Associated Development; and precedent for providing replacement ecological or amenity land within a DCO.

Whether or not employment floorspace could be replaced in general terms as associated development would depend upon the circumstances of the case and PINS thought that an ExA might want to explore how the associated development could be tied to the principal authorised development so that the floorspace could only be occupied by tenants displaced by compulsory acquisition.

GAL noted the above but also noted the need to explore this further as part of any subsequent process, once more detail on requirements is available.

Evidence plans, and evidence plan fora

GA asked about the value of PINS participation in Evidence Plan meetings in the preparation of the application documents.

PINS confirmed that the preparation of an Evidence Plan was a useful way forwards. Evidence Plans were originally set up by Defra to consider HRA issues - a role now covered by NE - but Evidence Plans could be wider ranging than just HRA in dealing with programming and managing expectations. PINS could take on a facilitating role and attend meetings.

PINS suggested that issues trackers can be a helpful tool in tracking progress towards the production of Statements of Common Ground with technical consultees (and others).

Specific decisions / follow up required?

- GA will keep PINS updated on pre-application progress as their position evolves in response to emerging government policy.