

KENT INTERNATIONAL AIRPORT CONSULTATIVE COMMITTEE

29 APRIL 2008

SECTION 106 PLANNING AGREEMENT AND OTHER PLANNING MATTERS

1.0 Introduction

- 1.1 Members of this Committee are well aware of the planning history of the Airport. Originally a military installation, the Airport passed into civilian usage without the need for a planning consent because of a High Court decision.
- 1.2 Since then it has, of course, been necessary for the Airport Owner to submit applications and obtain planning consent for any new development. Various development has been granted planning consent, including a passenger car park, runway aprons and an import cargo facility. These developments are well known to this Committee, and have been of considerable local public interest. Not surprisingly, because the Airport is a key feature in Thanet's environment.
- 1.3 Planning decisions are decided against a background of National Law, Secondary Guidance and Policy. Both Local and Regional Planning Policy support the development and expansion of Kent International Airport, chiefly because of the economic benefits that it will bring to the area, particularly so because of the relatively high unemployment and deprivation statistics which have characterised Thanet for a number of years. There is a national presumption that air transport will increase, again because of the association between air transport, airports and growing economic activity. Nationally, Airport development can be controversial, especially around the London area, it being apparent that, as capacity is limited, Airports further out from London will need to increase capacity. Most recently, this debate has featured Southampton, although there are obvious connotations for Kent International Airport.
- 1.4 In recognition that Airport development is large-scale and operates on very long timescales, there are several components to the planning system of particular relevance to Airports - these are Masterplanning, the process of Environment Impact Assessment and Planning Obligations (Section 106 Agreements).

2.0 Masterplans

- 2.1 There is an obligation on Airports to produce Masterplans. This is because, although the impacts and benefits of Airports are recognised, it is also acknowledged that an integrated approach to development control over long time-scales is needed.

- 2.2 Characteristically then, Masterplans set out various scenarios whereby, at different expanding levels of activity, there is commensurate environmental control. For example, as passenger numbers increase there might be a requirement to provide increased provision for dealing with car parking and providing better ground mass-transportation systems.
- 2.3 Masterplans then act as a type of yardstick against which planning applications are advanced, but in a sequence showing the changing relationship between economic, social and environmental factors.
- 2.4 Public consultation and strong input from statutory consultees, including the Environment Agency and English Nature, will be central parts of the process, and some legal commentators have observed that the process is deliberately constructed in favour of environmental interests, this being an attempt to counterbalance the pre-eminence that economic drivers might be said to have in Regional and National decision-taking.

3.0 Environmental Impact Assessment

- 3.1 In being thorough, the Environmental Impact Assessment (EIA) process does produce a wealth of comprehensive data. However, this can have the result of overwhelming consultees simply because of the volume and complexity of information. Consequently, it is a requirement of the Regulations that summary documents are produced, the idea being that everyone in the community can access information and become involved. It is now understood that public engagement can only properly take place if the public have full access to comprehensive, understandable information. The conclusion of the EIA process is production of the Environmental Statement.
- 3.2 A completed Environmental Statement has two purposes. First, it enables the particular planning application in question to be gauged and decided against a known factual background. Second, and this is pertinent to Airport development, over a period of time subsequent planning applications, even if subjected to further EIA, can still be referred back to the original Environmental Statement with trend lines showing change being available.
- 3.3 Interestingly, the Section 106 Planning Agreement regarding Kent International Airport required production of an Environment Statement. Looking back, it is possible to be critical of that document. Nonetheless, it does form a very useful database against which future information can be compared.

4.0 Planning Agreements (Section 106 Agreements)

- 4.1 The principle that developers carrying out substantial new development should include in their schemes measures or works to mitigate adverse effects is long established. Originally, what were Section 52 Agreements were often focused on community benefit but, as the scope and scale of new development has increased in this country, there is now a standard approach to Planning Agreements, usually with the viability of a major new development having to include proportionate contributions to, say, affordable housing and/or new infrastructure.

- 4.2 Self-evidently, the scale of Airport expansion anticipated at KIA would require any planning consent to be accompanied by a Section 106 Agreement.

5.0 Kent International Airport (formerly Manston) Planning Agreement 2000

- 5.1 Members will recall that this document is not tied to a grant of planning consent because no formal grant of planning was needed.

- 5.2 Instead, in recognition of community interest, the Planning Authority and the then Airport Owner both entered into the Agreement on a voluntary basis. The Agreement is binding on both parties. Although only intended to operate for a period of three years, because expansion of the Airport and major planning applications were anticipated, the Agreement has never been changed. Members all have a copy of the Agreement and will note that, in Section 4.3, extending the life of the document until such time as it is superseded is accounted for.

6.0 Effectiveness of the Kent International Airport Section 106 Planning Agreement

- 6.1 The question of how effective the document has been is very important to the Planning Authority. It carried out widespread consultation in 2005, and published the results - they are a matter of public record. Separately, a cross-party Working Party of elected Members produced a report in 2007. That report was copied to Members of this Committee in November 2007.

- 6.2 Members of this Committee will recall that subjects identified by Thanet Council to be revisited in the next Planning Agreement include night-time flying, noise abatement routes, training flights and, with respect of night-time flying, the quota count (QC) of aircraft of concern, the presumption being that as aircraft standards improve so should the standard expected by Planning Agreement.

- 6.3 The question has been asked, "How effective, in terms of penalties and deterrent, has the document been?" All successful Planning Agreements are essentially partnerships even though they are set down in legal documentation, the concept being that both developer and Planning Authority, on behalf of the local community, achieve their aims.

- 6.4 Thus, the ultimate sanction if either party withdraws from an Agreement is that the Planning Agreement, and therefore the consent, is nullified. In addition, the Kent International Airport Planning Agreement, in its Second Schedule, sets out various penalties. Best known are those relating to night-time flying and the imposition of payments into the community fund, doubling for contraventions by the same aircraft within a 12 month period. This is an unusual, and from the Airport's perspective, onerous obligation. It has however been applied to the full extent, with penalties invoiced and consistently paid by the current Airport Owner. They continue to support the Community Fund.

- 6.5 Elsewhere, in content the Planning Agreement requires the reporting of statistics. This reflects good practice in that it enables information on how the Airport performs with respect to certain environmental considerations to be reported into public domain - the clear intention having been, in 2000 when the Agreement was signed, that it would help shape the content of any successor Planning Agreement. In fact, the work conducted by the Council in both its process of public consultation and then review by the Working Party of elected Councillors, has made sure that this happened.

6.0 Conclusions

- 6.1 This brief paper seeks to outline the planning framework relevant to Kent International Airport.
- 6.2 The Council has reported its assessment of how effective the document has been into 2007, with the release of the Working Party report.

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