

Written Representation

Fieldfisher LLP represent British Pipeline Agency Limited ("BPA"). BPA acts as agent and operator on behalf of the Walton-Gatwick Pipeline Company Limited ("WGPL") on behalf of whom we objected to the draft order granting development consent for the Gatwick Airport Northern Runway (the "Draft Order"). in our letter dated 18 October 2023.

Introduction

We are writing to update the Examining Authority on the current position in relation to discussions between BPA and Gatwick Airport Limited (the "Applicant") (together "the parties").

In short, BPA is not currently able to withdraw its objection, and as a result, all of the points made in our letter of 18 October 2023 remain valid, and the Examining Authority is asked to treat them as incorporated herein.

Current Position between the Parties

Negotiations are taking place between the parties to agree protective provisions which will provide acceptable comfort to BPA that if any of the WGPL apparatus, including its liquid aviation fuel pipeline supplying Gatwick Airport with fuel, ("the apparatus") will be adversely affected by the acquisition of WGPL's rights pursuant to the Draft Order, that:

1. Appropriate protective measures will be installed over any parts of the apparatus, which could be crossed as a result of any new development (although we note that there are no specific planning proposals at the moment and indeed no certainty that planning permission will be obtained, so it is difficult to access the potential impacts on the apparatus); and
2. Works over and in the vicinity of the apparatus will be regulated to ensure compliance with health and safety requirements; and thereby avoid dangers to construction workers and members of the public that exist where pipeline infrastructure carrying aviation fuel is damaged; and
3. There will be an agreed process where the apparatus requires to be relocated to ensure that the existing apparatus remains operational until the replacement apparatus has been constructed and is ready to be connected into the existing apparatus (and any necessary ancillary rights granted); and
4. Rights will be provided in relation to the replacement apparatus or in lieu of any extinguished rights which are at least as extensive as those enjoyed for the existing apparatus; and
5. That all costs incurred by BPA and WGPL in putting in place measures to protect their existing apparatus, or to relocate their apparatus, will be met by the Applicant.

The importance of completing an overarching protective provisions agreement has been highlighted by the fact that it appears that not all of WGPL's interests (including critical access and working rights) have in fact been identified and set out in the Draft Order. Accordingly, an overall process for dealing with all works

which may affect BPA's apparatus, rather than setting out approaches for individual land plots identified in the Draft Order, is essential.

BPA's objection

The Examining Authority is referred to the points raised by BPA in its letter of 18 October 2023.

BPA wishes to highlight the following objections:

- A. In the absence of an agreement on protective provisions, if the Draft Order is confirmed in its current form and BPA's existing rights are extinguished, the Applicant will be in a position to prevent WGPL from continuing to access, operate, repair replace or maintain its apparatus, and as a result the supplies of fuel to Gatwick could cease or be interrupted.

This could have very significant economic impacts not only on BPA as operator and WGPL as owner of the fuel pipeline but also on the airport as a whole and all business within the airport, including impacts on levels of local employment. We note that WGPL currently supplies around 93% of Gatwick Airport's jet aviation fuel. As a result the compensation costs could certainly be very significant indeed.

It is not clear whether these very significant costs, which could be incurred if WGPL's operations in the area were impeded or unable to continue, have been provided for in the funding for the Draft Order. These costs could result in the Draft Order, including the costs of acquiring land and rights and delivering the scheme, being rendered uneconomic and undeliverable.

- B. BPA as operator and WGPL as owner of high-pressure pipelines is required to comply with health and safety regulations. If the Draft Order is confirmed and the Applicant acquires WGPL's rights in relation to its apparatus, and takes over access to those plots of land containing WGPL's apparatus, WGPL and BPA will no longer be able to comply with the relevant health and safety and regulatory requirements. Given the specialised and potentially hazardous nature of the apparatus, interference with that apparatus following the acquisition of WGPL's rights could have very serious safety implications for construction workers operating over or in the vicinity of the apparatus, and members of the public in the proximity of such works.
- C. BPA understands from the Applicant that the principal reason to acquire BPA's rights is to enable the Applicant to facilitate wider access across the apparatus. If this is the case, BPA objects to the Applicant's failure to minimise the rights which it seeks to acquire in seeking to acquire all of BPA's rights including those relating to the pipeline within Plot 1/175 a more restricted right could have been sought.

Conclusion

BPA is continuing to negotiate with the Applicant and hopes to conclude an acceptable protective provisions agreement between the parties.

In the event that the protective provisions agreement has not been settled by the date which is 4 weeks following the date hereof, BPA will provide the Examining Authority with a written update on the position.

In the meantime, and in the absence of any concluded agreement with the Applicant, the Examining Authority is asked to modify the Draft Order to remove all references to the acquisition of those rights, interests and property which could affect WGPL's apparatus, should it is determined that the Draft Order is to be confirmed.

Yours faithfully



Fieldfisher