

Interested Party Reference No: 20044943

PINS Reference: TR020005

Date: 27 August 2024

Application by Gatwick Airport Limited for an Order Granting Development Consent for the Gatwick Airport Northern Runway Project

RESPONSE TO REQUEST FOR FURTHER INFORMATION AND WRITTEN COMMENTS UNDER RULE 17 OF THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

1. The ExA raised the following question in its Rule 17 letter dated 20 August 2024:

R17f.3	<p>Protective Provisions</p> <p>The ExA notes the position and lack of agreement between the Applicant and Surrey County Council, as landowner, in respect of Bayhorne Farm. Please confirm whether consideration has been given to the drafting of Protective Provisions for Surrey County Council in respect of this issue.</p> <p>If the use of Protective Provisions would be considered appropriate, please provide draft wording.</p>
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2. In response, SCCaL's preferred position would be that SCCaL's land at Bayhorne Farm was removed from the dDCO in its entirety in order to enable the future delivery and development of Horley Business Park free from the constraints on such development potentially caused by GAL's land acquisition proposals for the Project and the works that are as set out at Schedule 1 to the draft DCO under Work No. 35. However, if the ExA is minded to recommend to the Secretary of State that SCCaL's land at Bayhorne Farm remains in the dDCO, then SCCaL considers that Protective Provisions would be appropriate.
3. Consequently, SCCaL's solicitors have e-mailed GAL's representatives setting out the principles of the Protective Provisions that SCCaL is seeking, for agreement, prior to drafting being undertaken for the Protective Provisions to be considered for insertion in the DCO. A copy of the e-mail sent to GAL's representatives is at Annex A to this Response together with an e-mail from GAL's solicitors responding to that e-mail. As will be noted from GALs' solicitors' response, GAL have indicated that it is willing to continue discussions after the close of Examination.
4. As stated in previous submissions, SCCaL remains committed to seeking agreement with GAL on the outstanding issues. As agreement on the Protective Provisions will not occur before close of the Examination, it is proposed that SCCaL will provide an update to the ExA if agreement on the Protective Provisions is made and, in any event, by the end of the 3 month period that the ExA has for making its recommendation and report to the Secretary of State.

ANNEX A

From: Aidan Dickinson
Sent: Tuesday, August 27, 2024 1:04 PM
To: Mike Ferens
Subject: Gatwick Airport Northern Runway Project - Protective Provisions

Mike

In the absence of Nyear Yaseen on holiday, I am writing further to the ExA's Rule 17 Letter of 20 August 2024, in which the ExA asked whether consideration had been given to the drafting of Protective Provisions. In response, and as indicated in SCCaL's Closing Submission of 21 August 2024, SCCaL consider that Protective Provisions could be appropriate.

To this end, set out below are general Principles which SCCaL are seeking to be covered in the Protective Provisions:-

Principles

1. By an agreed date GAL must supply to SCCaL all of the information requested for the highway and attenuation works affecting the South Terminal Roundabout ("STR") (Works No. 35) under the DCO ("the Works"), and SCCaL's land holdings at Bayhorne Farm. GAL must then engage in good faith with SCCaL on this information and on GAL's programme for further design, detailed consent and implementation. SCCaL and GAL to agree an appropriate period (not less than 3 months), prior to any further consent applications on these scheme elements, to enable SCCaL to review this information and assess its implications on their land-holdings and engage in preliminary discussions with National Highways (NH) and any other relevant highway and planning authority.
2. Before commencing the formal submissions for detailed design consent of the temporary or permanent works associated with the STR junction improvements and associated attenuation pond comprising the Works, GAL will have due regard to any representations made by SCCaL on the designs, and engage in good faith with SCCaL on the continuing design and consent work.
3. GAL will provide that access rights are granted to SCCaL to use the temporary 4th spur from the STR for the purposes of access to and from the Site, both for construction and operational use, and that the provision for access is in compliance with the requirements for access, movement and accessibility as set out in Policy HOR9 of RBDMP. The use by SCCaL of the 4th spur for either temporary or permanent use will be subject to SCCaL obtaining relevant agreement with NH or other relevant planning or highway authority.
4. GAL to ensure that any alignment or re-alignment of the STR undertaken as part of the Works does not prevent or restrict access to the Site in accordance with the requirements of 3 above.
5. There are to be no disposals (other than to National Highways, local highway authority or to SCCaL), or retention by GAL, of land so as to create any ransom strips between the SRN and the boundary of the Site as owned by SCCaL and GAL to ensure that there is a restriction against creating a ransom strip included in any disposal to National Highways or any other highways authority.
6. If planning permission is obtained for the development of the Site, with the 4th spur as the approved access, then GAL will leave the 4th spur in place, once the temporary use of the compound site on the Site ends. This use and retention of the 4th spur SCCaL for either temporary or permanent use will be subject to SCCaL agreement with NH or other relevant planning or highway authority.

Mindful of the ExA's request for a response by the end of today, once you have had the opportunity to consider the above with your client, may we please hear from you on the above. It is not anticipated, or indeed realistic, that the Protective Provisions will be drafted, and agreed, today but if GAL can confirm

that, in principle, they are willing to consider Protective Provisions then perhaps the same can be reported to the ExA.

I await hearing from you.

Kind regards,

Aidan Dickinson

Aidan Dickinson | Partner

For Sharpe Pritchard LLP

From: Hyde, Natasha

Sent: Tuesday, August 27, 2024 1:26 PM

To: Aidan Dickinson

Subject: RE: Gatwick Airport Northern Runway Project - Protective Provisions [HSF-GBR01.FID194434]

Hi Aidan,

The provisions your client is requesting are noted. As you will imagine, we do not have time to consider these provisions and provide a detailed response today or in our Deadline 10 submissions.

We are, of course, expecting discussions to continue following the close of the examination and will revert on the below in that context. At Deadline 10 we will be expressing the same.

Kind regards

Natasha

Natasha Hyde

Senior Associate

Herbert Smith Freehills LLP