

Gatwick Area Conservation Campaign

GACC

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A Response to
The Airports Commission
Discussion Paper 7
Delivery of New Airport Capacity

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Delivery of New Airport Capacity

GACC is the main environmental organisation concerned with Gatwick. Founded in 1968, we have as members nearly 100 councils and environmental groups.

Legal and Planning Issues

Q: What do you think of the options for securing planning consent on new airport capacity? What are their particular strengths or weaknesses?

1. Both options are likely to increase public antagonism and protest.
2. The Nationally Significant Infrastructure Projects (NSIPs) route involves several stages of public consultation, on top of the forthcoming consultation by the Commission. Yet the public are growing increasingly weary, sceptical and disillusioned by consultations. The impression is growing that the body doing the consultation has already taken its decision and is merely going through the motions of consultation so as to be able to claim to have done so. People are asked for their views - which are then ignored.
3. At Gatwick, this has been the case in recent years with the consultation on the Noise Action Plan in 2009, the consultation on the Master Plan in 2011 and the consultation on runway options in 2014. In all instances no substantive changes were made as a result of the consultation. Consultations on an NSIP where the Government had already announced its decision would leave the public increasingly frustrated and angry.
4. The alternative procedure of a Hybrid Bill involves lengthy debate in Parliament, but with the outcome pre-determined by the Government. The Government would have announced its support for the project; the Government, through the Whips, would appoint the members of the Hybrid Bill Committee; and the Government, with its majority control of Parliament would probably control the final outcome.
5. Either procedure would lack certain basic safeguards of the normal planning process:
 - ➔ forensic cross-examination,
 - ➔ the ability for the public to attend hearings conveniently, and
 - ➔ the assurance of a decision or recommendation given by a genuinely independent Planning Inspector.
6. Either procedure is therefore likely to increase public anger and frustration. We would foresee substantial civil unrest when the building of a new runway at Gatwick was about to commence. GACC itself has never engaged in illegal direct action. But we warn that the threat to much loved countryside, the threat of increased noise in areas at present peaceful, the threat to the heritage, and the threat of increased climate change damage would drive many middle-class middle-aged people to combine with young idealists to resist by all possible means.
7. The anger will be all the greater if it remains the case that Stansted is operating well below capacity, so that the physical destruction at Gatwick would appear unnecessary. Moreover many people would feel that the development was being

carried out, not in the national interest, but in the commercial interest of a foreign-owned company.

8. The building of a new runway at Manchester was delayed for many months by such protests, and we would predict that, although Swampy may have retired, the protest would be at least as great at Gatwick.
9. The Discussion Document, in Paragraph 3.3, notes the consultation carried out earlier this year by Gatwick Airport Ltd. That consultation was biased because the response form made it difficult for the public to express a preference for no new runway. We would therefore put no trust in the prospect of another consultation carried out by a commercially-motivated private company as part of the NSIP process.
10. Paragraph 3.7 refers to the continuing protests at Frankfurt Airport. We understand that these protests are largely the result of new flight paths which were not announced when the decision to build the new runway was taken. The German public therefore feel deceived and aggrieved. We trust that the Commission will publish probable new flight paths, not just with a few miles of the airport but across all parts of Surrey, Sussex and Kent (including the Areas of Outstanding Natural Beauty) which would be over-flown.

Local Communities

Q: What are the factors the Commission should consider in relation to local communities and the delivery of new airport capacity?

11. We are shocked that in paragraph 3.14 no mention is made of the greater annoyance caused by aircraft noise in rural areas with low background noise, an issue we have repeatedly brought to the attention of the Commission.
12. We put little value on the mitigation measures listed in paragraphs 3.12 -3.19.
 - ➔ Planning caps have no value if they are raised when reached;
 - ➔ an Independent Aviation Noise Authority which was found to have no power to reduce noise would merely add to public frustration and anger;
 - ➔ respite periods are over-rated - twice as many aircraft one day and none the next is no great joy;
 - ➔ Fines on noisy aircraft at Gatwick are at present ineffective as the noise limits are set far too high;
 - ➔ noise insulation schemes do not protect people who wish to be out-of-doors or to have their windows open.
13. Paragraph 3.25 in the Discussion Document refers to 'encroachment', an issue often raised by the aviation industry as if it were the fault of the planning authorities. More often it is the result of changes of policy by the Government or the airport. The case of the 2,000 houses being built at present on the northern side of Crawley close to the line of the proposed new runway is a case in point. Crawley Council refused permission, and were upheld at appeal. The builders took the case to the High Court, and the judge granted permission, basing his judgment on the fact that the Government in May 2010 had ruled out any new runway, and that the chairman of Gatwick Airport Ltd had stated in January 2010 that the airport 'had not a shred of interest' in a new runway. Local councils cannot be blamed if Governments change their minds and airports break their promises.

General

Q: Are these the right issues for the Commission to consider in relation to the expeditious delivery of any new airport capacity?

14. One important issue that is not included is that there is no method of enforcing the various undertakings being made by the proponents of the runway options. GACC has good knowledge of this issue having been closely involved in drawing up and overseeing a number of legal agreements with BAA when they owned Gatwick.
15. Considerable public concern has been expressed in recent months about promises made by multi-national companies in the course of take-over bids that are subsequently negated when the takeover is approved. An example was the take-over of Cadbury by the US based Kraft in 2010.
16. In a normal planning application, undertakings given by the applicant are incorporated either in legally binding planning conditions, or in a legally binding section 106 agreement.
17. Gatwick Airport Ltd (GAL) is making a number of pledges in their attempt to gain support from the Commission: promises to pay for road and rail improvements; promises to provide compensation for those living with the 57 leq contour; promises of improved noise insulation.
18. GAL is, however, a foreign owned company. The controlling shareholder, Global Infrastructure Partners, has made no secret of their intention of selling their share in around 2018. There is at present no way of ensuring that the new owners do not renege.
19. The answer is a legal agreement. But any new legal agreement would need to be negotiated before approval is given in principle, otherwise all bargaining power would be lost.
20. We are not sure that it would be practicable for the Commission to require an airport company to sign a legal agreement, if only because an agreement has to be between two parties and the Commission itself will have a short life. But we do suggest that for whichever runway option is recommended that the Commission draws up a precise list of undertakings that have been offered, and which need to be incorporated in a legally binding agreement. And that the Commission recommends that a legal agreement between the airport and the Department for Transport should be drawn up, and that the airport should be required to sign it before the Government gives approval in principle and before either the NSIP procedure or the Hybrid Bill procedure is initiated. Indeed perhaps the legal agreement might be incorporated in the Hybrid Bill.
21. In addition to the specific promises, GAL include in their proposals a number of optimistic aspirations. Examples include the target that 60% of air passengers will use public transport; that a substantial proportion of the additional labour will come from south London or from the South Coast; and that the listed buildings due for demolition might be re-located.

22. To include these aspirations in a precise legal agreement might be felt too draconian. On the other hand if they are not achieved, much of the case presented by GAL falls to the ground. For example, if the 60% use of public transport is not achieved, the number of cars will be higher than forecast, and the need for costly road improvements increased. But by that time the owners of Gatwick will have pocketed their profit and run, leaving the Government and the local authorities to foot the bill.
23. The solution to this problem would be to require GAL to sign a legal agreement, binding on succeeding owners of the airport, whereby they were required to pay a financial penalty if the target is not reached. Alternatively the legal agreement could impose a limit on the number of flights until such time that the target is reached.
24. This procedure would impose a good reality check on GAL's aspirations. If they were not prepared to sign a legal agreement (in the vernacular, if they were not prepared to put their money where their mouth is), it would prove that their aspirations are not to be taken seriously.
25. We have written this in regard to the Gatwick runway option because that is the one we have studied in detail: a similar policy should, of course, be applied to the two Heathrow options.
26. This note about legal undertakings has been kept short but we would be very willing to discuss it in more detail with the Commission staff if that would be helpful.