

DELEGATED REPORT

Application No:	20/P/2711/AIN	Target date:	27.11.2020
Case officer:	Neil Underhay	Extended date:	
Proposal:	Consultation request under the provisions of Part 8 (Class F) of The Town And Country Planning (General Permitted Development) (Amendment) (England) Order 2015 for a proposed public transport interchange facility, associated internal vehicular access, relocated drop-off zone, taxi rank, new substation and new pedestrian routes. THIS IS NOT A PLANNING APPLICATION		
Site address:	Bristol International Airport, North Side Road, Felton, Bristol		

Bristol Airport Limited (BAL) consulted the Council under Part 8 Class F of the 'Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015' ('the GPDO') on the following proposal at Bristol Airport:

'Public transport interchange (PTI) facility, associated internal vehicular access, relocated drop-off zone (DOZ), taxi rank, new substation and new pedestrian routes'

The consultation allows the Council to determine whether, or not, the proposal is 'permitted development'. The Council's reference number for this is **20/P/2711/AIN**.

BAL also submitted a Screening Opinion under the 'The Town and Country Planning (Environmental Impact Assessment) Regulations 2017' (the 'EIA Regs') for the same proposal. This requires the Council to determine whether, or not, the proposal is Environmental Impact Assessment (EIA) development. The Council's reference number for this is **20/P/2712/EA1**.

This report considers both elements.

Background

Bristol Airport Limited (BAL) received outline planning permission (reference number 09/P/1020/OT2) in 2011 to increase the airport capacity from circa 7.3 million passengers per annum (a capacity that BAL said was limited by infrastructure rather than operational restrictions) to 10 million passengers per annum (mppa). That application was subject to an Environmental Impact Assessment (EIA), which was required because that proposal included alterations to the airfield, alterations to an 'A' road (A38) and operational changes. BAL commenced the 10 mppa permission in 2011 and they have currently implemented most parts of it. In 2019 Bristol Airport served approximately 8.9 million passengers and BAL projected that it would reach 10 mppa by the end of 2021. That was before the start of the Covid 19 pandemic.

The 10 mppa permission comprised over 30 different engineering or building works. Most works are at the airport, although the proposal also included off site highway improvements. The on-site development included additional surface parking at BAL's 'Silver Zone' at the south of the airport, and two multi-storey car parks (MSCP) at the north of the airport. One of the approved MSCP's (now referred to as MSCP2) includes a Public Transport Interchange (PTI) on its top level. Hence, a PTI was an integral part of that proposal. The PTI would deliver quantitative and qualitative improvements in public transport infrastructure at the airport, which was required to support passenger growth up to 10 mppa.

The planning permission did not require BAL to implement the MSCP (and PTI) by the time a certain passenger threshold had been reached. Condition 7 of the 10 mppa permission did however require MSCP2 to be operational before the first phase of additional Silver Zone (Green Belt) parking was implemented. The purpose of this condition was to secure a sequential approach to development, to ensure that land for car parking in the Green Belt would be released only after development in the airport land outside the Green Belt (the Green Belt Inset) had taken place.

Subsequent planning permissions in 2016 (Council reference numbers 16/P/1455/F & 16/P/1486/F) however released BAL from that requirement and this allowed them to develop and use a seasonal car park in the Green Belt (on airport land) without any requirement for the MSCP (and PTI) to be built. The reason for this is that the Council were satisfied that the information provided by BAL in support of those applications did, at that time, show that the demands for different types of car parking had changed from the position reached when approving the 10 mppa application in 2011.

In 2018, BAL applied for planning permission (reference number 18/P/5118/OUT) to increase the airport capacity to 12 mppa. That application included, amongst other proposed developments, additional surface parking in the Green Belt next to the 'Silver Zone' and a further MSCP (known as MSCP3). When considering the 12 mppa application, officers sought a comprehensive of improvements to public transport services to/from the airport, with the purpose of increasing the percentage and number of passengers travelling to and from Bristol Airport by public transport. Officers also considered that improved public transport infrastructure at the airport and visibility to it, would be vital to achieving increased public transport use.

At the time that the 12 mppa application was considered, BAL said MSCP2 was unlikely to be built for several years 10 mppa was reached. They now say (email dated 12 January 2021) that MSCP2 would be built by the time 10 mppa is reached, which BAL project to be by 2024. As part of the 12 mppa application, BAL agreed to explore options to bring forward an alternative PTI ahead of MSCP2 being built.

The officer report to the Council's Planning & Regulatory Committee (February 2020) advised that since an alternative PTI did not form part of the 12 mppa application, and the projected environmental impacts of an alternative PTI had not been examined in the Environmental Statement at that time, it was a separate project.

Nevertheless, because a PTI was considered a vital part of public transport infrastructure, and there was no other way of delivering it, officers recommended a PTI was secured through a planning obligation. This would require BAL to commence a PTI: either the consented scheme or an alternative facility of equal standard, within 12 months of a 12 mppa permission being granted (to allow for the detailed design of the scheme,

procurement of contractors and consultation with NSC) with it being completed and operational within 30 months of a 12 mppa approval.

In doing this, officers considered that a PTI was necessary to make the development acceptable in planning terms. Planning Application 18/P/5118/OUT was however refused in March 2020 and it is now the subject of a planning appeal to be considered later this year.

As part of their 12 mppa appeal, PINS allowed BAL to submit addendums to their Environmental Statement and Transport Assessment. Paragraph 6.4.1 of BAL's 'Transport Assessment Addendum' (November 2020) says: *"The PTI [referring to an alternative PTI] would be provided to at least the same standard as under the 10mppa proposals. Furthermore: "the new facility would provide a significant enhancement to the airport's bus and coach capacity, an enhanced experience for public transport users...it would allow BAL to create a sense of 'arrival' at the terminal for all passengers travelling to the airport by bus and coach."*

Proposal

The proposed site for the PTI is to the west of the passenger terminal. This land is currently used as an express passenger 'Drop-off Zone' (DOZ) comprising 50 parking spaces.

The proposed PTI includes a surface level car park and terminus with 17 bus/coach stands, a PTI building, electric charging units and a covered walkway from the PTI to the passenger terminal. Other associated works include a new taxi rank; electrical charging units; new electricity substation; the refurbishment and reconfiguration of internal access roads; new pedestrian underpass; and other ancillary development including signage, lighting, CCTV, security barriers and landscaping.

BAL say (para 3.3.91 of their EIA Scoping Report) that the DOZ will be moved to the approved site of MSCP2 as an interim surface level facility. This land is currently used as a surface level car park. BAL say it: *"will include approximately 70 layby parking spaces. The DOZ will ultimately be incorporated into the upper level of MSCP2"*.

The proposal is further explained/shown in the following documents:

- Covering letter dated 29 October 2020
- Environmental Impact Assessment Screening Report October 2020 (Environmental Impact Assessment Screening application only)
- Site Location Plan – Drawing Ref. 18054-PTI-TOD-01-00-DR-A-100-001-00
- Existing Site Layout – Drawing Ref. 18054-PTI-TOD-01-00-DR-A-100-002-00
- Proposed Site Layout – Drawing Ref. 18054-PTI-TOD-01-00-DR-A-100-003-00
- Existing Level 00 Floor Plan – Drawing Ref. 18054-PTI-TOD-01-00-DR-A-200-001-00
- Proposed Level 00 Floor Plan – Drawing Ref. 18054-PTI-TOD-01-00-DR-A-200-002-00
- Proposed Elevations & Sections – Drawing Ref. 18054-PTI-TOD-01-ZZ-DR-A-300-001-00
- Proposed North side Road Realignment – Drawing Ref. C1267-00-SK-040 A
- Email from BAL dated 12 January 2021

Third Party Consultation

The Council carried out consultation on both submissions. Third party comments received to date are either quoted in full or summarised below.

Wrington Parish Council

20/P/2711/AIN

This Council has examined the proposals submitted by the airport for the construction of a new Public Transport Interchange and associated works relating to its construction on the site, including the respective Drawings submitted contemporaneously.

The intention is hereby to decouple the Public Transport Interchange development and other matters from the Application approved under reference 10/P/1020/OT2, claiming that such would constitute Permitted Development under Part 8 of Class F of the Town and Country Planning (General Development) (Amendment) Order 2015. Coupled with this would be associated works such as diversion of traffic routes and others.

This Council is mindful of Section 73 of the Town and Country Planning Act however which states (inter alia) that such an Application as this should be refused (Sub-section 2) and that a full and proper Planning Application should be required from the applicant in order to amend the developments previously approved.

In the circumstances therefore, this Council lodges its objection to the Application as submitted on the grounds of its ineligibility to meet fully the criteria required, notwithstanding the proposed developments being situated within the airport's operational boundary.

20/P/2712/EA1

In the light of the airport's proposals being clearly ineligible for the reasons set out in this Council's response to Application 20/P/2711/AIN, it must follow that the applicant may no longer rely upon Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, to avoid the need for a further Environmental Impact Assessment to be drawn up and submitted to support the case for further development.

This Council therefore disagrees with the contention for eligibility by the airport and lodges objection to the proposal to rely upon the above-mentioned Regulation 6. The amount of matters which will change from those previously consented to under the 2010 Application will clearly be substantial and the likely knock-on environmental effects could be considerable. A new and up to date Environmental Impact Assessment must therefore be appropriate prior to any development of this magnitude taking place.

The Council would also draw attention to the need to ensure that appropriate measures are taken to safeguard the environment and foraging grounds of the Greater and Lesser Horseshoe Bats protected by means of the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document, with particular reference to levels of light and noise pollution resulting from the proposed works. (In this respect, Paragraph 3.3.18 of the Environmental Impact Assessment Screening Report is mistaken, as it fails to recognise that the airport is washed over by the SAC.).

This Council would also wish to see limitations placed upon the permitted hours of working for the protection of residents.

Parish Councils Airport Association (PCAA)

Wraxall & Failand Parish Council

Supports the comments submitted by the Parish Council Airport Association

Stop Bristol Airport Expansion

Supports the comments submitted by the Parish Council Airport Association

Natural England (in respect of 20/P/2712/EA1)

Significant effects on statutorily designated nature conservation sites or landscapes are unlikely.

Environment Agency:

If the Council considers that planning permission is required, BAL should provide an assessment of how the aquifer will be protected. If an application isn't required, they suggest BAL be advised to take precautions to safeguard the aquifer, and ensuring no contaminated drainage reaches groundwater to protect the water environment.

OFFICER CONSIDERATION

There are two key issues to address:

- Whether the proposed development falls within Part 8 Class of the GPDO? and;
- If so, whether Article 3(10) of the GPDO precludes the carrying out of the proposed development?

GPDO Consultation reference number 20/P/2711/AIN

Part 8 (Class F) of the *'Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015'* ('the GPDO') applies to *'development at an airport'*. It says, 'Permitted Development' is: *'The carrying out on operational land by a relevant airport operator or its agent of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport' is 'Permitted Development'*. This is subject to Clauses F1 to F4 inclusive.

Clause F.1 says: *"Development is not permitted [development] by Class F if it would consist of or include -*

- (a) *the construction or extension of a runway;*
- (b) *the construction of a passenger terminal the floor space of which would exceed 500 square metres;*
- (c) *the extension or alteration of a passenger terminal, where the floor space of the building as existing at 5th December 1988 or, if built after that date, of the building as built, would be exceeded by more than 15%;*
- (d) *the erection of a building other than an operational building; or*

- (e) *the alteration or reconstruction of a building other than an operational building, where its design or external appearance would be materially affected.*”

Clause F.2 says: *“Development is permitted by Class F subject to the condition that the relevant airport operator consults the local planning authority before carrying out any development, unless that development falls within the description in paragraph F.4.”*

Clauses F.3 says: *“For the purposes of paragraph F.1, floor space is calculated by external measurement and without taking account of the floor space in any pier or satellite.”*

Clause F.4 says: *“Development falls within this paragraph if:*

- (a) it is urgently required for the efficient running of the airport, and*
- (b) it consists of the carrying out of works, or the erection or construction of a structure or of an ancillary building, or the placing on land of equipment, and the works, structure, building, or equipment do not exceed 4 metres in height or 200 cubic metres in capacity.”*

Assessment

Development is only permitted pursuant to Part 8 Class F on “operational land”. The phrase “operational land” is not defined in the GPDO. However, section 336 of the Town and Country Planning Act 1990 defines it as having the meaning given in section 263 of that Act. Section 11 of the Interpretation Act 1978 has the effect that the meaning of “operational land” within the GPDO is the same as that contained within the TCPA 1990.

Section 263 of the TCPA 1990 provides:

“(1) Subject to the following provisions of this section and to section 264, in this Act “operational land” means, in relation to statutory undertakers—

- (a) land which is used for the purpose of carrying on their undertaking; and
- (b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.”

Section 264 of the TCPA 1990 provides:

“(1) This section applies where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—

- (a) the interest was acquired by them on or after 6th December 1968; or
- (b) it was held by them immediately before that date, but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the 1962 Act.

(2) Where this section applies in respect of any land then, notwithstanding the provisions of section 263, the land shall not be treated as operational land for the purposes of this Act unless it falls within subsection (3) or (4).

(3) Land falls within this subsection if—

- (a) there is, or at some time has been, in force with respect to it a specific planning permission for its development; and
- (b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.

(4) Land falls within this subsection if—

- (a) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the Transport Act 1968, the Transport (London) Act 1969, the Gas Act 1986, the Airports Act 1986[the Water Act 1989 or the Water Industry Act 1991]1[or, in the case of land held by Canal & River Trust, the Public Bodies Act 2011]2 from other statutory undertakers; and
- (b) immediately before transfer the land was operational land of those other undertakers.

BAL is a “relevant airport operator” within the meaning of Part V of the Airports Act 1986. As such it is a “statutory undertaker”: see section 262(1) TCPA 1990. To be operational land, the statutory undertaker must have an interest in that land. The land registry entry including the site subject to the proposed development confirms that it is owned by Bristol Airport Limited.

Section 264 TCPA 1990 has the effect of identifying what land is not to be taken as operational land. BAL was previously named Bristol Airport PLC (28 Nov 1986-29 May 1998) and Bristol International Airport Limited (29 May 1998 - 24 Mar 2010). Since BAL did not exist prior to 28 November 1986 it acquired its interest in the relevant land after 6th December 1968. As a result, section 264 applies (see section 264(1) TCPA 1990). This means that the relevant land can only be “operation land” if it falls within section 264 (3) or (4).

Land falls within section 264(3) if—

- (a) there is, or at some time has been, in force with respect to it a specific planning permission for its development; and
- (b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.

A “specific planning permission” is defined as including “a planning permission ...granted on an application in that behalf made under Part III”.

The 10 mppa permission included, as part of a much larger planning application site area, the entire land that is the subject of the current proposal. The approved site plan for the 10 mppa permission showed the area comprising the proposed alternative PTI, included a service yard, car parking area, access roads and in flight catering building. These are elements that are required in connection with the airport undertaking. It is therefore concluded that under section 264 (3) of TCPA 1990 that the land on which the development is proposed is ‘operational land’.

In addition, land can only be operational land within the meaning of section 263 if it is land which is used for the purpose of carrying on their undertaking. In this case the site of the alternative PTI is currently used as an express passenger Drop Off Zone, which is an airport undertaking. The relocated DOZ is currently used as passenger parking, is also an

airport undertaking. As a result, it is concluded that the relevant land is operational land to which Part 8 Class F applies.

The next question is whether the proposed development is “*development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport*”. Officers are satisfied that the proposed development falls within the scope of this definition. The Airport is a relevant airport as defined. The PTI would be provided in connection with the provision of services and facilities at the airport and it would facilitate access to the airport by non-car modes.

The proposed development does not fall into any of the development types listed in clause F.1. Consequently, paragraph clause F.3 does not apply. BAL have satisfied clause F.2 through this consultation. Clause F.4 does not apply.

The proposal is therefore ‘*Permitted Development*’ under Part 8 (Class F) of the GPDO.

Article 3(1) of the GPDO

Article 3(10) of the GPDO also applies and this provides:

(10) Subject to paragraph (12), Schedule 1 development or Schedule 2 development within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”) is not permitted by this Order unless—

(a) the local planning authority has adopted a screening opinion under regulation 6 of those Regulations that the development is not EIA development within the meaning of those Regulations;

(b) the Secretary of State has made a screening direction under regulation 5(3)]7 of those Regulations that the development is not EIA development within the meaning of those Regulations ; or

(c) the Secretary of State has given a direction under regulation 63(1) of those Regulations that the development is exempted from the application of those Regulations.”

Is the proposal Schedule 1 Development?

Schedule 1 of the EIA Regs lists 24 descriptions of development, which are EIA development. Development type 7 (1) refers to: “*Construction of lines for long distance railway traffic and of airports with a basic runway length of 2,100 metres or more*”. The proposal does not include: the ‘*Construction...of airports with a basic runway length of 2,100 metres or more*’, so it does not fall into description type 7(1) or any other description of development in Schedule 1. The proposal is not Schedule 1 development.

Is the proposal Schedule 2 Development?

‘Schedule 2’ of the EIA Regs lists 13 descriptions of development, each having thresholds at which ‘Screening’ is required. There are two descriptions of development that are potentially relevant, which are extracted from Schedule 2 of the EIA Regs and shown in the table below.

Column 1 Description of development	Column 2 Applicable thresholds and criteria
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10. Infrastructure projects	
(e) Construction of airfields (unless included in Schedule 1);	(i) The development involves an extension to a runway; or (ii) the area of the works exceeds 1 hectare.
13 Changes and extensions	
(b) Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed	(i) The development as changed or extended may have significant adverse effects on the environment; or (ii) in relation to development of a description mentioned in column 1 of this table, the thresholds and criteria in the corresponding part of column 2 of this table applied to the change or extension are met or exceeded.

Description 10(e) applies to the 'Construction of Airfields'. The 10 mppa application (reference number 09/P/1020/OT2) involved works at the airfield including widened aircraft taxiways, extending aircraft aprons and additional aircraft stands. These elements together with the proposed operational changes and alterations to an 'A' road (A38) were the catalyst for that proposal being EIA development, under the former 1999 EIA Regulations that applied at that time.

The current proposal does not involve any works to the airfield. The proposed development does however involve a change to EIA development (the 10 mppa permission) that is "*already authorised, executed or in the process of being executed*". Schedule 2 13(b) therefore applies, and it is necessary therefore to consider whether the proposal is likely to have significant adverse effects on the environment

Third parties say that the alternative PTI should be treated as being part of the bigger proposal. Furthermore, BAL have intentionally separated it from MSCP2 to circumvent consideration of its cumulative impacts and avoid an EIA process.

There is a substantial body of caselaw which requires a planning decision maker to consider whether proposed development should properly be considered part of a larger project or not when considering questions of screening and likely significant effects.

If the proposed development is considered part and parcel of a larger project, then the decision maker shall consider the question of likely significant effects on the environment by reference to the impacts of that larger project - as a whole. If the proposed development here formed part of a larger project and that larger project is EIA development, then in the absence of a direction under regulation 63 of the 2017 EIA Regulations, Article 3(10) would have the effect that the GPDO does not grant planning permission for the development proposed.

The assessment of a project's likely significant effects on the environment is made by reference to the project which is the subject of the application to the competent authority, unless that development is an integral part of a more substantial scheme. In **R v Swale BC ex parte RSPB** [1991] 1 PLR 6 , Brown J. said, at [16]:

“The proposals should not then be considered in isolation if, in reality, it is properly to be regarded as an integral part of an inevitably more substantial development. This approach appears to me appropriate on the language of the Regulations, the existence of the smaller development of itself promoting the larger development and thereby likely to carry in its wake the environmental effects of the latter. In common sense, moreover, developers could otherwise defeat the object of the Regulations by piecemeal development proposals.”

The most recent Judicial consideration of the position can be found in ***R. (on the application of Wingfield) v Canterbury City Council*** [2019] EWHC 1975 (Admin) where Lang J explained (paragraph 51):

“The courts have been astute to detect what is colloquially known as 'salami slicing' – the device of splitting a project into smaller components that fall below the EIA thresholds - thereby avoiding the requirement to carry out an environmental assessment.”

In Wingfield the Court identified that the question of what constituted the "project" for the purposes of the Regulations was a matter of judgement for the decision maker. Relevant factors could include:

- Common ownership: where two sites were owned or promoted by the same person, that could indicate that they constituted a single project
- Simultaneous determinations: where two applications were considered and determined by the same committee on the same day and subject to reports which cross refer to one another, that could indicate that they constituted a single project
- Functional interdependence: where one part of a development could not function without another, that could indicate that they constituted a single project
- Stand-alone projects: where a development was justified on its own merits and would be pursued independently of another development, that could indicate that it constituted a single individual project that was not an integral part of a more substantial scheme

It follows that it is necessary to consider whether the proposed development here is part of a wider project. If the PTI proposal under-consideration here is considered part and parcel of the 12 mppa project, then the GPDO cannot be relied upon to deliver the PTI.

Common ownership

The 12mppa development and the PTI are proposed on sites owned and promoted by the same person, namely BAL

Simultaneous determinations

This criterion includes reference to whether there is cross-reference between the two developments under consideration. The 12 mppa application does not seek planning permission for the PTI. However, the Transport Assessment Addendum explains paragraph 7.1.14):

*“Chapter 6 sets out the comprehensive package of additional measures BAL intends to introduce as part of a new ASAS to support the Proposed Development. These measures include investments in new and improved passenger transport services, a new **PTI**, workplace travel plan and comprehensive monitoring regime.”* Bold text is the author's emphasis.

Appendix L of the Transport Assessment Addendum sets out draft Heads of Terms for proposed transportation measures. The Transport Assessment Addendum explains (paragraph 6.1.2) that Appendix L “sets out a comprehensive package of measures designed to further encourage a shift towards more sustainable modes of travel.” These Heads of Terms explain that as part of the proposed Surface Access Strategy:

*“A **PTI** will be delivered to provide a high-quality facility. Construction of the PTI would commence no later than 12 months following planning consent (subject to securing necessary planning approvals) with it being complete and operative within 30 months post consent....”* Bold text is the author’s emphasis.

In order to give weight to a matter contained within a section 106 planning obligation, it must be concluded that the PTI is necessary to make the development proposed acceptable in planning terms (see Reg 122 of the CIL Regulations). It is clear therefore that BAL regards the PTI as a necessary part of the Airport Surface Access Strategy relied upon to support the proposed increase to 12 mppa. Indeed, BAL envisage the PTI being developed at the same time as the 12 mppa scheme is built out.

That view is also shared by Officers. Indeed, the officer report to the Council’s Planning & Regulatory Committee (10 February 2020) said: *“It is considered that public transport infrastructure at the airport and visibility to it is vital to its success.”* The officer recommendation to approve the 12 mppa application included a planning obligation requiring BAL to commence a PTI: either the consented scheme or an alternative facility of equal standard, within 12 months of a 12 mppa permission being granted (to allow for the detailed design of the scheme, procurement of contractors and consultation with NSC) with it being completed and operational within 30 months of a 12 mppa approval. Accordingly, officers took the view that the 12 mppa development would not be acceptable in planning terms without a PTI being provided. This indicates that the PTI proposals does form part of the wider 12 mppa project.

Functional interdependence

As explained, both BAL in its Transport Assessment Addendum and officers take the view that a PTI is necessary in order to make the 12 mppa scheme acceptable in planning terms. Indeed, no assessment has been presented which indicates that the 12 mppa is acceptable in planning terms without a PTI in place. This indicates that the 12 mppa scheme is functionally dependent upon the PTI coming forward.

Stand-alone projects

There is no evidence that the alternative PTI will be delivered if the 12 mppa scheme is refused. Instead, as can be seen from Appendix L of the Transport Assessment Addendum the timing of the provision of the PTI is linked to the timeframe of the grant of planning permission for the 12 mppa scheme.

Having regard to these matters in the round, Officers consider that the PTI proposals are part and parcel of the wider 12 mppa scheme. The PTI proposals are not therefore free-standing but rather form part of a wider project that is likely to have significant effects on the environment and is EIA Development.

This is a different view to that previously expressed by Officers. However, significant new information has been provided by BAL in the intervening period in the form of the new Transport Assessment Addendum and its Appendices. This new information has caused officers to re-assess and ultimately change their view.

Conclusion

Consequently, in the absence of either:

- a) the Secretary of State making a screening direction the PTI proposals are not EIA development; or
- (b) the Secretary of State making a direction that the PTI proposals are exempted from the application of the EIA Regulations,

The effect of Article 3(10) is such that the PTI cannot come forward pursuant to the GPDO. In the absence of a screening direction/exemption direction from the Secretary of State, an express application for planning permission will need to be made for the PTI accompanied by an environmental statement which assess the likely significant effects, as a whole, of the project of which it forms part.

Recommendations

The proposal is not 'permitted development' under Article 3(10) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015', and it would therefore require planning permission.

Appendix 1.

Comments from the Parish Councils Airport Association

The PCAA is of the opinion that an Environmental Impact Assessment is required and that an application under s73 should be submitted for the relocation of the Public Transport Interchange (PTI) and ancillary developments to amend the 2011 planning permission.

The Correct Consenting Process

The Airport's request is being made under the planning consent of 2011 and not that of application 18/P/2018/OUT for growth to 12 mppa as this planning application was refused by NSC on 19 March 2020. Therefore, any agreement made by NSC officers under application 18/P/5118/OUT is currently irrelevant until the Bristol Airport Appeal is heard in 2021.

The movement of the PTI from the top of MSCP2 is an amendment to the current planning permission granted in 2011 (the 2011 Permission). Whilst the BA enjoys permitted development rights, under the 2011 Permission, condition 70 requires the development to be built in accordance with the relevant plans. These plans show the PTI on top of MSCP2 and so they will need to be amended. To legitimately build out the PTI as proposed in 20/P/2711/AIN an application under s73 would have to be made.

BA are seeking to evade proper scrutiny or control of what is effectively a large change to the way the 2011 Permission is to be delivered. It, therefore, needs to be applied for properly, and through the proper consenting process which is under s73 application to amend the existing planning permission and NSC can decide whether conditions need to be applied.

The starting point for an amendment to a scheme that was subject to EIA is that EIA will be required for the amendment.

Need for EIA

The Environmental Impact Assessment Screening Report recognises that the PTI is conditioned under growth to 10 mppa, under the planning consent of 2011. The location of the PTI was to be on top of the MSCP 2, thus these two developments are connected, and the delivery of these developments should occur at the same time. The Condition helps to ensure the delivery of the MSCP 2.

Paragraph 2.3.18 of the Screening Report states, 'There will be a temporary loss of short and long stay car parking as a result of the relocated DOZ until further car parking provision is provided by the construction of MSCP 2'. The report fails to state the number of short and long stay car parking places lost or when the construction of MSCP 2 will take place.

Paragraph 3.3.5 of the report states 'the proposed development does, however, constitute a change to a Schedule 2 paragraph 10(e) project that has been authorised (i.e. the 10 mppa development) as the PTI will be located in the existing DOZ rather than on the top storey of MSCP 2. In consequence, it is appropriate to consider the proposed development in the context of the thresholds identified in paragraph 13b whereby EIA may be required if:

i. the development as changed or extended may have significant adverse effects on the environment;'

The temporary loss of car parking space will inevitably result in more car parking on the South side and increase off-site car parking and on the rural roadsides of parishes surrounding the Airport. The report fails to address the impacts of the loss of car parking spaces which is important because these give rise to many environmental impacts.

The report titled 'Parking Demand Study Addendum' for development to 12 mppa concludes that 'Furthermore, in order to fully meet all the expected demand which is currently catered for by offsite capacity, it will be necessary to make both C1 and C2 all year round from 2020 onwards, once C2 has been constructed.' Note that the scenario given is without MSCP 2 and no delivery date is mentioned within application 18/P/5118/OUT.

Under the 10 mppa growth planning consent the Airport will have to submit a full application for use of the Silver Zone Phase 1 (Cogloop Land) for winter 2021, if the Appeal is unsuccessful.

The PCAA notes that the proposed development is 11 hectares in area comprising the new PTI, the internal access roads required for entry and exit, the area for temporary relocation of the DOZ and the site of the new pedestrian underpass. It is also difficult to see how a development over 11 hectares would not, at the very least, give rise to some short-term significant effects in its construction. Landscape and visual effects need to be considered and the effects on the ANOB even in the short term.

The screening report underplays the effects with very little actual assessment or evidence. The 2011 Permission was an EIA development and a large infrastructure change is likely to have in combination effects on the project. It is likely that there will be significant effects rising from this just because of the nature of the project. Until an assessment is carried out it will be very difficult to ascertain what these will be. As with all EIA the precautionary principle should be applied, and a full assessment required. BA cannot be left to dismiss the effects without carrying out a proper assessment.

Under this part of the criteria EIA is required.

Page 14 of the Screening Report (Table 3.1) shows the thresholds and criteria applying to paragraph 10 (e) of Schedule 2: Construction of airfields (unless included in Schedule 1) relevant to the Screening Opinion. The Screening Report only addresses the first criterion:

‘(i) The development involves an extension to a runway;’

The Screening Report does not consider the second criterion which needs to be considered separately: ‘

(ii) the area of the works exceeds 1 ha’

Paragraph 3.3.5 of the screening report is incorrect and does not grapple with this requirement. The development is 11 hectares. It is therefore necessary to consider whether the development is likely to give rise to significant adverse environmental effects “by virtue of factors such as the development’s nature, size or location”.

An EIA and a full planning application are required.

Reference 1. https://planning.n-somerset.gov.uk/onlineapplications/files/06582FF4D35115887DAE2A9440D1DC42/pdf/18_P_5118_OUTSECTION

2 - _CAR_PARKING_-_FURTHER_INFORMATION_PURSUANT_TO_REGULATION_25-2860171.pdf 2. <https://www.travelweekly.co.uk/articles/392310/jet2-announces-bristol-as-tenthairport-base>

3. <https://theclassyinvestor.com/2020/11/11/ryanair-expects-air-passenger-numbersto-bounce-back-in-2021/>

Signed: Neil Underhay