

S106 Agreement between Gatwick Airport Ltd, Crawley Borough Council and West Sussex County Council

Summary

In the last year, Gatwick Airport Ltd (GAL) and the local authorities – Crawley Borough Council (CBC) and West Sussex County Council (WSCC) have been in discussion to progress a ‘light touch refresh’ of the existing s106 Agreement. As a result, a new s106 Agreement was signed and executed on 24th May 2022 and runs until 31st December 2024. The Agreement is largely in the form of the previous agreement with some modifications to reflect the impact of Covid-19 on the airport and to update obligations where changes over the last few years have occurred. The Agreement can be viewed on GAL’s website ([link](#)). The Steering Group is requested to note the contents of the new updated Agreement.

What are s106 Agreements?

A legal agreement under s106 of the Town & Country Planning Act 1990 allows a landowner and a local authority to enter into an agreement for the purpose of restricting, regulating and / or mitigating the development or use of the land. The use of Section 106 Agreements is now regulated by the Community Infrastructure Levy Regulations 2010, which set out the legal tests to be applied to determine if any planning obligations are lawfully required. The tests are that the obligations are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

This is supported by the same policy tests in the National Planning Policy Framework 2021.

Background

A legal agreement was first entered into between GAL and CBC and WSCC in 2001 and subsequently has been extended every 3 or 4 years since then. The last s106 Agreement was signed in 2019 and ran for a period of 3 years until the end of 2021.

There are three principal objectives agreed between the parties (GAL, CBC and WSCC) that drive the terms of the Agreement (Recital G of the Agreement):

- *the desire to see the Airport continue to grow by making best use of its existing one runway, two terminal configuration; it being acknowledged that the Company has announced its intention to seek a Development Consent Order to bring the existing northern runway into routine use alongside the main runway.*
- *the need to ensure that as the Airport grows, measures are in place to minimise, so far as possible, its short and longer-term environmental impacts; and*
- *the importance of maintaining and enhancing the ways in which the parties to this Agreement share information and work together and with other stakeholders to bring significant benefits to the Airport and the communities it serves and affects.*

In general, and over the course of the various agreements, the obligations have been used to manage and mitigate the operational aspects of the airport and airport related development on the environment whilst ensuring the airport makes a positive contribution to the local economy and the quality of life for those living within the Gatwick Diamond area.

Updated S106 Agreement (expiring 31st December 2024)

As part of the refresh of the Agreement, GAL and the local authorities agreed that a “light touch” update was most appropriate, in expectation that a new airport-wide s106 Agreement would need to be agreed as part of the Development Consent Order process for the Northern Runway Project, due to take place during the latter part of 2022 and through 2023.

As was the case in past agreements, the updated Agreement contains 10 schedules setting out objectives and obligations for GAL relating to a number of topics including climate change, air quality, noise, surface access, development, community and the economy, action planning, monitoring and reporting, as well as obligations for both CBC and WSCC such as running a Gatwick Officers Group.

A ‘light touch’ refresh was undertaken in association with CBC and WSCC officers and was signed on 24th May 2022. A copy of the agreement, as with previous agreements has been uploaded onto the GAL website ([s106 link](#)).

The majority of the Agreement remains the same with some minor drafting changes included to bring timescales and factual information up to date. A small number of other changes have been incorporated into the agreement, including:

1. Updating the public car parking levy contribution by 0.75p per annum (following on from the existing Agreement) (Obligation 5.3.2.2)
2. Introducing an allocation to the Airports Sustainable Transport Fund of 1.8% of the total fees collected each calendar year from the drivers of vehicles using the terminal forecourt passenger drop-off zones (Obligation 5.3.2.3) and 100% of the funds generated through fines from ‘red route’ contraventions (Obligation 5.3.2.4).
3. Amending the way in which the Community Trust contribution is calculated based on passenger numbers to take account of the impact of Covid-19. It is now based on £50,000 increments for every 10 million passengers. This aligns community impacts more closely with passenger numbers and will see payments rise to £250,000 (previously £230,000) once passenger numbers return to over 40mppa in a calendar year. (Para 7.1.3)
4. Schedule 8 and 9 – Simplifying the audit process with verification to be carried out on the obligations contained within the agreement and with the next verification exercise to be carried out in 2023 rather than 2022 (recognising the continued impact of Covid-19 this year).

Recommended

- (1) That the contents of this paper are noted