

Committee: Council

Date:

Title: Report of the Independent Expert Review into the handling of the Stansted airport expansion planning application

Tuesday, 19 July 2022

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Summary

1. This report brings forward to full Council for debate the Report of the Independent Expert Review into the handling of the Stansted airport expansion planning application

Recommendations

2. Recommendation: to receive and note the independent expert review report into the handling of the Stansted airport expansion planning application

Financial Implications

3. This report was commissioned and funded within existing resources.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report:

The independent expert's review report itself – reproduced in appendix A.

Impact

- 5.

Communication/Consultation	The report was produced independently, but guided by a cross-party Scrutiny Task and Finish Group, who were in turn consulted at various stages by the report author.
Community Safety	Nil
Equalities	Nil
Health and Safety	Nil

Human Rights/Legal Implications	The independent expert reviewer is a leading planning lawyer, and was recruited on that basis for that expertise. His report therefore contains extensive legal conclusions.
Sustainability	Nil
Ward-specific impacts	Nil – whole district impact
Workforce/Workplace	Nil

Situation

6. Full Council in January 2021: RESOLVED: “Council calls on the Scrutiny Committee, at the appropriate time, to consider whether there is a need to initiate a Member-led review and, if so, to engage with the Planning Advisory Service (PAS) or similar body to audit and scrutinise the process which commenced under the previous Administration in 2018.”
7. The substantive motion was carried 28 for, 2 against and 7 abstentions.
8. In turn, Scrutiny established a Task and Finish Group to work with Officers to commission and deliver this independent expert review report to Scrutiny, with the following terms of reference:
 1. “what actually happened” from the start of pre application discussions in 2017 to the recommendation to approve the Planning Application, to its refusal through to appeal and PIN’s decision, up to the Full Council decision not to pursue and challenge the dismissal on the papers of the s288 application under the Town and Country Planning Act 1990;
 2. whether all steps and actions accord with the Councils Constitution;
 3. whether all steps and actions accord with best practice (planning and governance); and
 4. the lessons to be learnt and what recommendations should be made in relation to future applications and decisions.
9. The members of that Task and Finish Group were Cllrs Coote, Criscione, Fairhurst, Khan, and chaired by Cllr LeCount. During the course of the work, Cllr Jones was appointed, and Cllr Coote left the group on joining the Cabinet, replaced by Cllr Driscoll. The lead officer supporting the Task and Finish Group was Jane Reynolds, and it was also assisted ably by colleagues from democratic services and latterly by the chief executive.
10. It's important to reflect that the Terms of Reference were explicitly set after a discussion to focus initially on looking to the past to understand what happened but predominantly so as to look to the future to identify lessons that can positively be applied for the future. The Task and Finish Group

approached this task collegiately, across party lines, and adopted this focus unanimously.

11. The next task for the Group was to work with Ms Reynolds to recruit an independent expert to undertake this review, consider all the evidence, and write their report.
12. The Group established clearly – and again unanimously – the skillset needed for this independent expert, namely an expertise and considerable experience in: planning law; good governance and decision-making; and in technical planning matters in particular.
13. The Task and Finish Group was delighted that Ms Reynolds was able to recruit Stuart Andrews from Evershed Sutherlands who is both an experienced planning lawyer as well as being dual-qualified also as a town planner and Member of the Royal Town Planning Institute.
14. The members of the Task and Finish Group assisted in scoping out the evidence bundle that our independent, expert reviewer worked his way through. Later, once the reviewer had completed his first draft, the Group considered the full list of evidence he had considered, including extra evidence he had identified during the course of his work, so as to sense check that this was sufficiently full.
15. In terms of the breadth of evidence considered, it is important to note that this was predominantly written, as the Task and Finish Group concluded, aided by the advice from the independent expert reviewer that this was sufficient, and that the prospect of taking oral evidence from potentially a wide range and large number of Councillors, Officers and external parties involved would be prohibitively large to the point of being entirely impractical.
16. It would be appropriate to acknowledge that on this particular point – there has not been a consensus amongst the Group, with some members preferring that a much larger and extensive piece of work had been undertaken to take oral evidence to supplement the many thousands of pages of written documentation considered by the independent expert reviewer. The Chief Executive has advised that efforts to restart the independent review process at this stage with an extra oral evidence gathering phase would be high effort and high cost and cause considerable delay, but also be most unlikely to lead to any clear additional evidence – as interviewing dozens of members, former staff members and QCs/barristers no longer in Uttlesford's employ, about several meetings over many hours of free-flowing discussion several years ago, unsupported by any useful official notes would lead to further confusion not further clarity.
17. Nonetheless, the review continued on the basis of the wide range of evidence available, and the independent expert reviewer considered that this was sufficient for him to be able to reach strongly evidenced conclusions.
18. Once the report was completed, the Task and Finish Group received it in confidence, and met twice to discuss it before it was presented to Scrutiny.
19. The Group, in those two meetings, made a range of comments and observations as recorded below, which are offered to Scrutiny to help shape the debate.

20. The debates at the Task and Finish Group materially shaped and informed the lessons learned paper later on the agenda for full Council's consideration.
21. After extensive debate on the Report at the Scrutiny extraordinary meeting on 14th July 2022, Members voted to receive the report ahead of its consideration at full Council with six voting in favour and two against.

Risk Analysis

22.

Risk	Likelihood	Impact	Mitigating actions
Risk that the lessons that can usefully be learned are not embedded in future behaviours in and beyond planning	2	4	This independent expert review, its cross party oversight and high degree of consensus achieved therein on learning points, and the officer action plan all mitigate this otherwise substantial risk.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.