
MANSTON INTERNATIONAL AIRPORT – Evaluation and Validation Report

To: **Cabinet – 31st July 2014**

Main Portfolio Area: **Economic Development/Planning**

By: **Acting Chief Executive
Director of Corporate Resources**

Classification: **Unrestricted**

Ward: **All**

Summary: **To report on the next steps following receipt of a stage 1 Evaluation and Validation report on Manston Airport.**

For Decision

1.0 Introduction and Background

- 1.1 On 10th July 2014, Council considered a petition and a motion concerning the potential acquisition of Manston Airport by CPO. Further to this, on 17th July 2014 Cabinet considered an indicative process and timelines for identifying a CPO indemnity partner. The process and timelines may have to be qualified in the light of legal advice which is currently being sought.
- 1.2 This report sets out the next steps following receipt of a Stage 1 Evaluation and Validation report and updated legal advice in respect of any future potential CPO process.

2.0 Initial Evaluation and Validation Report

2.1 The Council commissioned independent consultants to carry out an assessment of the viability of the airport at Manston. The first stage of this assessment has been completed and the conclusions have been set out in the consultants' attached report. The purpose of the first stage of the assessment was to provide:

- an initial evaluation and validation of the airport owner's assessment, looking at the airport's underlying costs and profit drivers;
- assumptions in respect of investment required;
- a view on whether all available opportunities have been taken to identify aircraft operators; and
- a view on whether all available markets for ancillary airport operations have been considered.

It is evident from the assessment that the airport will not be successful if it re-opens and an attempt is made to operate it in the same configuration as it had been previously.

2.2 The report (and based on the information currently available), concludes that insufficient work has been done to develop a visionary strategy and business plan

for Manston. The report also considers that the airport could be viable on the basis of a 20-year business plan that sets out a phased development of the airport. The business plan would cover both operational facilities and commercial infrastructure. The Parkway Station and improved HS1 rail link are also critical. With the associated reductions in the journey time to London, the airport has the potential to compete for a market share as a London airport, and the need for additional runway capacity in the S.E. should therefore be exploited as the core business opportunity, even if this is only in the short term.

- 2.3 To summarise, the report recommends developing a high level 20-year business plan (commencing from the opening of the rail link/Parkway Station) that integrates the following five business models:
- 1) Manston as a London Airport
 - 2) Manston as a multi-purpose Regional Airport
 - 3) Manston as a Cargo Airport
 - 4) Manston as a Corporate Fixed Base Operation
 - 5) Manston as a sophisticated Airport City (Real Estate)
- 2.4 The report goes on to recommend that there should be a focus on establishing early construction of the rail link/Parkway to facilitate Phase 1 of the 'Airport City' business park. There should also be consideration of a Local Development Order (potentially linked to an extended Enterprise Zone) in tandem with open discussions on investment funding and with government on the S.E. Runway issue.
- 2.5 Clearly this is an ambitious vision; however (and as already mentioned above) it appears evident that the airport will not be successful if it re-opens and attempts to operate in the same configuration as it has done previously up to its closure.
- 2.6 The report identifies that no business plan with a credible investment plan of less than 20 years is likely to provide the commitment necessary to rebuild confidence. From an investor's standpoint, the payback period might be as long as 50 years. The level of investment would have to be significant (£100m's) and there are never any guarantees of success. Moreover, this will require full Council and national political support and is a huge undertaking. However, it should be emphasised that the consultants are clear that this is the only approach that has any chance of securing the future of the site as an operational airport.
- 2.7 Although officers are continuing work with a view to establishing whether there are grounds for making a CPO, it appears that the level of funding required for the business plan would necessitate a substantial financial commitment on the part of other local authorities and agencies, which would be well in excess of the financial capacity and resources of the Council acting alone.
- 2.8 If the activities envisaged in the business plan were to be put into effect, the scale of operations and ancillary development (Airport City) that it is suggested are needed to make the airport viable are significantly greater than the previous operations that were being carried out immediately before its closure.
- 2.9 If the business plan were implemented, there would be other potential impacts: - numbers of flights, volume of passengers, hours of operations, potential economic, environmental or housing need impacts. More work will be required to establish those impacts.

3.0 Legal Advice - CPO

3.1 Further advice received from counsel has indicated that Cabinet need to have a clear position on what the site is going to be used for prior to commencing any CPO process. Should Cabinet decide that Manston ought to remain as an airport, counsel's opinion is that the Council is likely to have a strong case on public interest grounds in light of the loss of jobs etc; however, the Council would have to be able to demonstrate that the case was a compelling one in order to justify interference with private property/human rights. With a view to putting together a case that might support the making of a CPO, the Council should:

- 1) Support the retention of the site as an airport in the emerging Local Plan.
- 2) Engage with the current owner to consider any potential for delivering the business plan through current ownership (avoiding CPO).
- 3) Undertake an appropriate selection process to identify a CPO indemnity partner/investor/developer/operator capable of delivering the proposed/recommended 20-year business plan; incorporating the five models referred to above (the operation and deliverability of the business plan will be critical to the CPO).
- 4) Obtain wider support for the proposal including government recognition that such a proposal could support the S.E. airport capacity issues.

4.0 Selection of CPO Indemnity Partner/Developer/Operator

4.1 There are two options depending whether the disposal to the indemnity partner is subject to EU procurement rules. The Council is seeking legal advice as to whether EU rules apply and this will be reported at the meeting. Given the findings of the initial assessment set out in sections 2.3 to 2.5 above, there are some additional considerations as to how the procurement would need to proceed, namely:

- The need to identify a lead partner who would draw in other operational and commercial investors.
- A recognition that the development would be a long-term project and that any agreement would need the flexibility to allow for commercial and strategic variations over the business plan period.

4.2 **Option 1** - The EU Procurement rules do not apply. The EU Public Procurement regime obligations do not apply to land acquisition where CPO criteria have been established and planning powers to give effect to the public interest are exercised. In this case the identification of the prospective third party to buy/lease the site – given appropriate external legal and advisory support – would be a 3-month timeline. The contracting authority's role would be limited to the sale/lease of land to a third party with only some conditions/restrictions to high level planning requirements or town plans and which must be legally enforceable. The contracting authority also must not get an economic benefit from any agreement.

4.3 **Option 2** -The EU Procurement rules do apply. Land transactions themselves are not always exempt from the EU public procurement regime and related tendering obligations. This is a complex, evolving area of law and primarily based on "what is the contracting authority's role?"

- 4.4 Where a contracting authority is contributing funding/and or taking risk, i.e. actively seeking a commercial operator, there will be EU procurement requirements where the value is above the financial threshold (currently £4.3m). Below this threshold local tendering obligations as contained in the council's Contract Standing Orders will be required.
- 4.5 The EU Procurement regime is designed to provide fair, transparent and uniform processes for selecting third parties to undertake opportunities plus provides advantages to contracting authorities in mitigating risk including mitigation of both state aid and ineffectiveness risk relating to challenges to the process.
- 4.6 An indicative minimum timeline in respect of the restricted procedure under the EU procurement regulations is seven months (217 days). This assumes that it would be possible to develop the Invitation to Tender during the time between publication of the contract notice and pre-selection of capable candidates (57 days)

Timeline	Days
Publish Prior Information Notice (PIN)	
Official Journal of the European Union (OJEU) - Contract Notice despatched	
Publish TDC/Kent Business Portal - minimum 48hrs after receipt of despatch of contract notice to OJEU	2
OJEU - Contract Notice published	
Expressions of interest due and Pre-Qualification Questionnaire return - regulatory minimum period of days	37
PQQ Evaluation	10
PQQ results and debrief of suppliers	10
Tenders issue and return following PQQ Evaluation - regulatory minimum period of days	40
Opening of tenders	2
Evaluation of tenders	56
Award Intention notified to all tenderers	10
Cooling-off period - regulatory minimum period of days	10
Debrief unsuccessful tenderers.	10
Finalisation of legal agreement and contract award	30
Minimum required timeline	217

5.0 Procurement

- 5.1.1 A market test could be undertaken by the Prior identification Notice process. This would not be a formal obligation and could be used to identify the range of potential partners. Prospective partners would be asked to identify themselves and informal discussions could take place.
- 5.1.2 A PIN must be published for a minimum of 22 days. The notice would be published 8th August 2014. This would be based on a visionary document produced by the Council; the first stage of the viability assessment; and a questionnaire. If a PIN is used the 56 day evaluation stage set out in 4.6 above could be reduced to 36 days.
- 5.1.3 Informal expressions of interest following the PIN would be evaluated. This would gauge market interest from organisations of suitable standing and expertise who could provide a viable and sustainable solution. If the evaluation demonstrated sufficient market interest, the formal procurement process would proceed.

6.0 Corporate Implications

6.1 Financial and VAT and Risk

- 6.1.1 The financial and VAT implications will be assessed once the report commissioned by the Council on airport financial viability has been finalised.
- 6.1.2 The cost of the second stage of the viability review can be met from existing Planning budgets.
- 6.1.3 Cabinet should note that the identification of a CPO indemnity partner will result in significant costs to the Council. These costs could include external legal and procurement advice. If an asset is acquired and a disposal is subsequently achieved, these costs may be recoverable from the chosen indemnity partner. If ultimately there is no acquisition and disposal, all the abortive costs would fall to be met from revenue.
- 6.1.4 There will also be significant costs in applying for a CPO. Only when an agreement was in place with an indemnity partner would such costs be incurred on the basis that they were fully recoverable.
- 6.1.5 The risk of abortive costs being incurred can be reduced by the proposed market testing.

6.2 Bond issues

- 6.2.1 Bond issues are typically for £100m's by large public sector organisations that do not have access to the capital borrowing resources of the Public Works Loan Board.
- 6.2.2 The main source of borrowing for Local Authorities is the Public Works Loan Board (PWLB), which is an Executive Agency of HM Treasury. The interest rate charged by PWLB is the gilt rate plus 0.8% (PWLB Certainty Rate). The gilt rate changes for different maturities and represents the market interest rate for UK government debt (gilts are listed on the London Stock Exchange). This borrowing source is available for local authorities' capital expenditure.
- 6.2.3 Given the Council has access to PWLB borrowing facilities, there is no reason at this stage to proceed with preparing a bond issue in respect

6.3 Legal

- 6.3.1 Contained in the main body of the report.

6.4 Corporate

- 6.4.1 None direct

6.5 Equity and Equalities

- 6.5.1 There are no direct equity or equality implications.

7.0 Recommendation

- 7.1 That Cabinet decides whether it accepts the recommendations contained within the Stage 1 Evaluation and Validation report.
- 7.2 That Cabinet shares the report with the current owner of Manston to enable discussions with a view to establishing a way forward.
- 7.3 If 7.1 is agreed, Cabinet instructs Officers to proceed to Stage 2 of the viability assessment to develop a high level Business Plan which will be necessary to support the Local Plan process and any potential future procurement for an appropriate investor/partner.
- 7.4 Cabinet instructs Officers to undertake a market testing exercise (prior to any full procurement process) to establish the level of interest in line with the conclusions in the Evaluation and Validation report.

Contact Officer:	Paul Cook, Director of Corporate Resources
Reporting to:	Madeline Homer, Acting Chief Executive

Annex List

Annex 1	Manston Stage 1 report
Annex 2	Manston Stage 1 report Appendix A2

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Paul Cook, Director of Corporate Resources
Legal	Peter Riley, Council Solicitor