

**CABINET
3 MARCH 2020**

**TEESSIDE INTERNATIONAL AIRPORT LIMITED (“TIAL”) –
JOINT VENTURE CONSENT**

Responsible Cabinet Member - Councillor Heather Scott, Leader of the Council

Responsible Director - Paul Wildsmith, Managing Director

SUMMARY REPORT

Purpose of the Report

1. This report updates Cabinet on progress in relation to the delivery of the TVCA business case for the airport and requests shareholder consent to enable TIAL to progress a joint venture for the development of the Southside in line with that business case.

Summary

2. "Southside" comprises a significant area land to the southern side of the main airport complex and the operational areas including the main runways and airport taxiing routes. It lies partly within Darlington Borough but predominantly within Stockton Borough and extends to approximately 109 hectares.
3. The importance of a successful Southside development to underpin a viable airport and the issue has for some time been envisaged as part of the development of the airport business. This was in the Peel Masterplan but was unable to move forward.
4. On 24 January 2019 the Tees Valley Combined Authority approved investment proposals for the acquisition and development of TIAL.
5. The TVCA cabinet and the airport board of directors have now taken decisions that will provide for the Southside land to be unlocked which takes the development of the Southside into a new stage. The upfront infrastructure has been costed at £23.6 million, this is to provide road access, utilities and flood mitigation works and is based on a re-working and updating of the tender cost for the scheme put forward by Peel. The report to the Airport Board is included at **Appendix 1 (Part III)**
6. The specifics of the investment by TVCA is that TIAL will draw down a loan of £23.6m from the TVCA to fund the upfront infrastructure requirement. This is to be repaid throughout the period of development. The business case describes that with the predicated returns TIAL will be in a position to repay the loan. Ultimately through the period of development TIAL will still continue to be underwritten as a going concern by TVCA.
7. TIAL will enter into a joint venture partnership with the Theakston Land and Wynyard Business Park to deliver construction of the infrastructure and

development of the business park through the establishment of a joint venture subsidiary.

8. Darlington Borough Council, together with the other Tees Valley Councils and Durham County Council, are minority shareholders of TIAL, and consent from the minority shareholders is required to enable TIAL to enter into any partnership, joint venture or profit sharing arrangement if this is outside the normal business of the airport as a commercial airport. Consent from the minority shareholder local authorities has therefore been requested to enable the decision taken by the TVCA Cabinet and TIAL board to progress.

Recommendation

9. It is recommended that Cabinet :-
 - (a) Note the decision of the TVCA Cabinet to support the development of the Southside through a loan of £23.6m to TIAL for enabling infrastructure.
 - (b) Note the decision of the TIAL board to enter into a joint venture and establish a subsidiary company with their selected developers Theakston Land and Wynyard Business Park to undertake the development of the Southside.
 - (c) Provide consent to TIAL to pursue the Southside development including consent to the establishment of the subsidiary and the grant of a 125-year lease.

Reasons

10. The recommendations are supported by the following reasons :-
 - (a) To support the Southside development and to help in securing the long-term viability of Teesside International Airport.
 - (b) To provide the consent required to enable the development to move forward

Paul Wildsmith, Managing Director

Background Papers

No background papers were used in the preparation of this report

S17 Crime and Disorder	Not Applicable
Health and Well Being	Not Applicable
Carbon Impact and Climate Change	Not Applicable
Diversity	Not Applicable
Wards Affected	All wards affected but Sadberge and Middleton St George in particular
Groups Affected	All Groups
Budget and Policy Framework	Not Applicable
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	The viability of the airport supports one Darlington perfectly placed
Efficiency	Not Applicable
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

The Southside Land

11. "Southside" comprises a significant area land lying, as its name suggests, to the southern side of the main airport complex and the operational areas including the main runways and airport taxiing routes. It lies partly within Darlington Borough but predominantly within Stockton Borough and extends to approximately 109 hectares.
12. As far back as 1999 the "Southside" land was granted outline planning permission by the Secretary of State for freight handling, distribution and packaging, freight forwarding and light industrial / commercial assembly. Then in 2007 a further application made is possible for the land to be made available for general industrial use as employment land. Southside remains allocated within Stockton and Darlington's respective Local Plans to provide sufficient specialist land to support the expansion of airport related uses but supported by a proportion of general employment land.
13. The local authority shareholders have long recognised the importance of a successful Southside development to underpin a viable airport and the issue has been a consistent theme and was always envisaged as part of the development of the airport business.
14. The development by Peel of a Masterplan and supporting investment plan produced in 2012/13 showed that for Peel the proposals at that time were unviable, with an investment appraisal included in the Investment Plan showing a shortfall of approximately £5 million needed to make the development commercially feasible. It was therefore suggested in Peels Investment Plan that the public sector contribute by investing in infrastructure (through grant or equivalent in-kind) that would make the development financially viable by effectively bridging the £5million gap.

15. In 2015 it was identified that Tees Valley Local Enterprise Partnership had secured £90.3m from the Government's Local Growth Fund, which included £5m provision for a new access road linking the Northside with the Southside at the airport, around the eastern end of the runway. This new link road would open up the Southside, to provide an employment park, and logistics and processing areas with a variety of employment uses. However, the Master Plan also described that investment for re-positioning and growing the Airport would not be possible without capital raised from enabling housing development on airport owned land.

Current Development Proposal

16. On 24 January 2019 the Tees Valley Combined Authority agreed to acquire the 89% shareholding of Peel Holdings Limited in Durham Tees Valley Airport Limited (now TIAL) with the intention of bringing in an experienced private sector private partner to assist in running the airport business.
17. In order to do this TVCA established a new holding company Goosepool 2019 Limited to buy the shares from Peel. TVCA's airport operator Stobart Holdings Limited then acquired shares in Goosepool 2019. Goosepool is jointly owned by the Tees Valley Combined Authority (75%) and Stobart Holdings Limited (25%).
18. On 24 January 2019 the Tees Valley Combined Authority approved investment proposals for the acquisition and development of TIAL. TVCA had engaged with Turner and Townsend to provide advice on the purchase, valuation and development potential of land as well as outline options assessment. The final recommendations to the TVCA cabinet was supported by the Full Business Case: "Securing the Future of Our Airport". The business case included reference to the airport's land development opportunities, noting that the Southside presented the most significant opportunity and that maximising the wider property assets was key to improving the financial viability of the airport.
19. The TVCA cabinet and the airport board of directors have now taken decisions that will provide for the Southside land to be unlocked which takes the development of the Southside into a new stage. The upfront infrastructure has been costed at £23.6 million, this to provide road access, utilities and flood mitigation works and is based on a re-working and updating of the tender cost for the scheme put forward by Peel. The report to the Airport Board is included at Appendix 1 (Part III)
20. The specifics of the investment by TVCA is that TIAL will draw down a loan of £23.6m from the TVCA to fund the upfront infrastructure requirement. This is to be repaid throughout the period of development. The business case describes that with the predicated returns TIAL will be in a position to repay the loan. Ultimately through the period of development TIAL will still continue be underwritten as a going concern by TVCA.

The Joint Venture Approach

21. Recognising that TIAL are not themselves a developer, in order to progress the development of Southside and to provide confidence that the scheme can be delivered a joint venture partner with significant relevant experience has been sought. The intention being that TIAL will enter into a joint venture partnership with the private sector to deliver construction of the infrastructure and development of the business park.

22. It was recognised that TIAL (through TVCA) would need to conduct a robust process for the selection of the Southside developer to ensure that any prospective partner would work in the way that met the investment objectives of ensuring that a return came back to support the airports' viability.
23. Legal advice to TVCA identified that an OJEU procurement was not necessary, as whilst TIAL would potentially follow the Utilities Contract Regulations 2016 in respect of its airport activities, the commercial activities relating to the development of the Southside are outside the scope of the regulations. This enabled a more commercially focused process to be followed that has examined a range of possible options.
24. Since the acquisition of the airport shares in early 2019, mindful of the approach set out in the business plan, various developers had contacted TVCA and the Mayor to find out about potential development opportunities. Those market orientated discussions helped frame what would and crucially what would not be commercially possible in terms of development with the intention of avoiding the pitfalls which had seen the Southside development not progress significantly for over 10 years.
25. In parallel to the discussions with possible developers, a number of discussion also took place with investment funds to establish whether there was an appetite to support a joint venture arrangement. It became clear that the general inflexibility of investment fund rules and, in particular the requirement to make return in priority of any return to TIAL would sit outside the desired outcomes and these were excluded from further consideration.
26. Following the market orientated discussions, the main principles adopted for the selection of a developer were:-
 - (a) A recognition that the public sector would invest for a long term return rather being asked to provide infrastructure grant funding.
 - (b) Ensuring the developer had a sufficient local focus and connection with the Tees Valley to have an interest in the actual outcome for our region. One that whilst recognising the speculative risk in the development would be prepared to forgo the market anticipated 20% upfront return.
 - (c) Making sure that the developer would accept the long term commitment and be prepared to make their commercial return through dividends alongside TIAL.
 - (d) Ensuring that the developer would be motivated by driving the project to produce more rapid development as opposed to land banking; and longer term returns through a focus on a strong programme of development that would produce the economic growth.
 - (e) Protecting public assets and money through a long term return to TIAL which could be reinvested in the airport, and the repayment to TVCA of its interest bearing loan.

27. Bringing together the market orientated discussion and following consultation with LEP Board members and other private sector soundings, two separate developer consortia were invited to present final proposals. This process identified that the consortia comprised of Theakston Land and Wynyard Business Park were the best commercial and outcome orientated fit. In particular they stood out as they were prepared to contract with TIAL on the basis that –

- (a) The public funding for the infrastructure could go into the project by way of a loan with interest at a commercial rate, rather than through any public sector grant;
- (b) They would not take any developer profit out early in the development, and would not in fact be paid for their management of the infrastructure works on our behalf; and
- (c) They were prepared to earn their returns in the long term via dividends which would depend on effective partnership working with DTVL and TVCA, and which will be driven by the success of their efforts.

28. The decision of the TIAL board is that they will enter into a joint venture partnership with the Theakston Land and Wynyard Business Park to deliver construction of the infrastructure and development of the business park through the establishment of a joint venture subsidiary.

Local Authority, Minority Shareholders

29. Approximately 11% of TIAL is still owned by the local authorities in the following proportions:

	%
Darlington Borough Council	3%
Durham County Council	1%
Hartlepool Borough Council	1%
Middlesbrough Borough Council	2%
Redcar & Cleveland Borough Council	2%
Stockton-on-Tees Borough Council	2%

30. At the point of acquisition of the Peel shares by TVCA it was agreed that the existing minority shareholder protections under the shareholders agreement would be maintained with some minor modifications and clarifications.

31. One of the protections is that whilst the local authorities hold an aggregate shareholding of more than 10% that they have to consent to enable TIAL to enter into any partnership, joint venture or profit sharing arrangement if this is outside the normal business of the airport as a commercial airport. Consent is therefore requested to enable the decision taken by the TVCA cabinet and TIAL board to progress.

Shareholder Considerations

32. Whilst directors must act in the way that they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, shareholders are not so constrained and can legitimately decide matters in their own self-interest.
33. Currently, none of the local authorities hold the shares for the purposes of investment. Notwithstanding the acquisition of the Peel shares by TVCA the local authorities continue to record the value of the shares held in terms of their own accounts as having a nil value and there is no current expectation of a dividend being paid.
34. The purpose in continuing to hold the shares has certainly since 2003 been more about insuring a degree of control in the public interest over the airport. For some considerable time the local authorities have supported the development of Southside for the benefit of the airport and to help secure its longer term viability. The decisions taken by the TVCA Cabinet and the TIAL board are consistent with that long standing approach, but with the loan commitment from TVCA have now materialised into a viable and crucially funded proposal.