



**BRIEFING PAPER**

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# Heathrow Airport

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**Contents:**

1. History
2. Ownership
3. Regulation
4. Noise
5. Airspace and use of runways
6. Expansion



# Contents

<b>Summary</b>	<b>3</b>
<b>1. History</b>	<b>4</b>
1.1 Terminal 5	6
<b>2. Ownership</b>	<b>11</b>
<b>3. Regulation</b>	<b>12</b>
3.1 Heathrow price control review H7	14
<b>4. Noise</b>	<b>17</b>
4.1 Impacts around Heathrow	17
4.2 Noise mapping and tracking	18
4.3 Measures to deal with noise	19
<b>5. Airspace and use of runways</b>	<b>22</b>
5.1 Operational freedoms	23
5.2 Optimisation strategy	24
5.3 Departure trials	25
5.4 Operational considerations due to expansion	26
<b>6. Expansion</b>	<b>29</b>
6.1 Government policy	29
Labour, 1997-2010	29
Conservative-Liberal Democrat Coalition, 2010-15	30
Conservatives, 2015-	31
6.2 Other views	33
Labour	33
Liberal Democrats, Green Party & DUP	34
Scotland	34
Wales	35
6.3 Airports Commission, 2012-15	36
Interim Report and subsequent consultation, December 2013	36
Final report, July 2015	38
6.4 Compensation	42
6.5 Airports National Policy Statement (NPS)	43
Overview	43
Parliamentary procedure	44
Transport Select Committee scrutiny and report	45
Publication of final NPS and response to Transport Committee report	46
Judicial Reviews	55
6.6 Development Consent Order process	55
DCO preparations by Heathrow Airport	56
Process for submitting and considering a DCO	56
‘Requirements’ and enforcement	58

## Summary

This paper provides information on Heathrow Airport, including who owns it, how it is regulated, how it deals with noise and uses its runways and its plans to expand capacity with a third runway. It also sets out Government and regulatory policy in regard to the above and explains how the Parliamentary processes for approving a National Policy Statement and the planning processes for a Development Consent Order may proceed.

Heathrow is the UK's only hub airport. It is regulated by the Civil Aviation Authority under an economic licence. The CAA is currently working on developing the regulatory framework for Heathrow to 2020 and beyond. Heathrow has measures in place to monitor and deal with noise and to compensate those affected; the Government expects it to extend these if its expansion plans are given the go ahead. It has also experimented in recent years with operational freedoms and changing departure routes. These too will have to be reassessed in light of a new airspace strategy and expansion plans.

In October 2016 the Conservative Government announced that it would support a planning application by Heathrow for a third runway to the north west of the existing site. This was in line with the recommendation of the Airports Commission, which reported in July 2015. Consequently, the Government published for consultation in February 2017 a draft National Policy Statement (NPS); a new draft NPS was published in October 2017 following the intervening June election. The NPS provides the framework and criteria against which a development consent application will be judged.

The draft NPS was scrutinised by the Transport Select Committee and they published a report in March 2018. The report contains detailed analysis of the case for a new North West Runway at Heathrow, including the strategic and economic case, the impact on the regions and domestic routes, costs, deliverability, community impacts, air quality, noise, carbon, and surface access.

On 5 June 2018 the Government published its response to the Committee's report indicating those recommendations it accepted, partially accepted and rejected, and laid the final NPS before Parliament. It requires approval via a vote within 21 sitting days – a vote in the House of Commons is expected on 25 June.

The scheme is controversial, particularly amongst local communities. The Labour Party has just announced that the NPS does not meet the party's four tests for approving Heathrow expansion. There are indications of multiple judicial review applications of the NPS if it is designated following the Parliamentary votes. Heathrow may proceed with a planning application, in the form of a Development Consent Order (DCO), once the NPS is designated.

Briefing papers on other airports and aviation policy issues such as noise and airspace can be found on the [Aviation Briefings Page](#) of the Parliament website.

# 1. History

Originally designated 'London Airport', London Heathrow Airport (LHR)<sup>1</sup> started operations in 1930 as a private airport to assemble and test aircraft. In 1944, as part of the war effort, it was requisitioned by the Air Ministry for development into a Royal Air Force transport base.<sup>2</sup>

It officially opened to the public in May 1946 after it was transferred from military to civilian control in January of that year. A December 1945 Command Paper on British Air Services stated that: "Heathrow will be designated as the long-distance airport for London and will be developed to the highest international standards required for trans-oceanic aircraft".<sup>3</sup> A July 1948 report by the Select Committee on Estimates gives the following account of the beginnings of the airport:

London Airport is being constructed at Heathrow on a site which was originally selected during the war for conversion into an RAF aerodrome. At that time it was intended that there should be three runways forming a triangle, all to the south of the Bath Road. Work was begun but not completed when the war ended and the aerodrome was not in fact used by the RAF.

As early as 1943, before the development of the site was begun, the department of Civil Aviation of the Air Ministry realised that Heathrow would be a suitable site for the construction of London's major civil airport, in place of Heston which was no longer thought to be satisfactory [...]

[A lay out panel was subsequently set up and reported in 1946, this proposed] three main stages in the plan of development. Stage I covers the completion of the runways begun for the RAF, with temporary terminal buildings on a site between the triangle of runways and the Bath Road. Stage II allows maximum air traffic capacity south of the Bath Road, with the use of six runways. Such portions of the permanent terminal buildings as are needed to meet requirements will be completed and all the areas allocated for aircraft maintenance will be available for development. Stage III, the final stage, includes use of land north of the Bath Road, the road itself being diverted north of the airport. There will then be nine runways. The three stages were originally expected to be completed in 1946, 1949 and 1953 respectively [...]

The construction of the last three runways on the land north of the Bath road, under Stage III, involves diverting the road itself some distance to the north and demolishing a number of houses. It was agreed that, as alternative accommodation for the present occupants has first to be provided, the runways cannot be completed for a number of years.<sup>4</sup>

The Committee concluded that: "The choice, during the war, of Heathrow, as the site for London's major civil Airport was well made

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<sup>1</sup> it was not designated 'Heathrow' until 1966

<sup>2</sup> CAA, [Market power determination in relation to Heathrow Airport – statement of reasons](#), CAP 1133, 2013, Appendix C

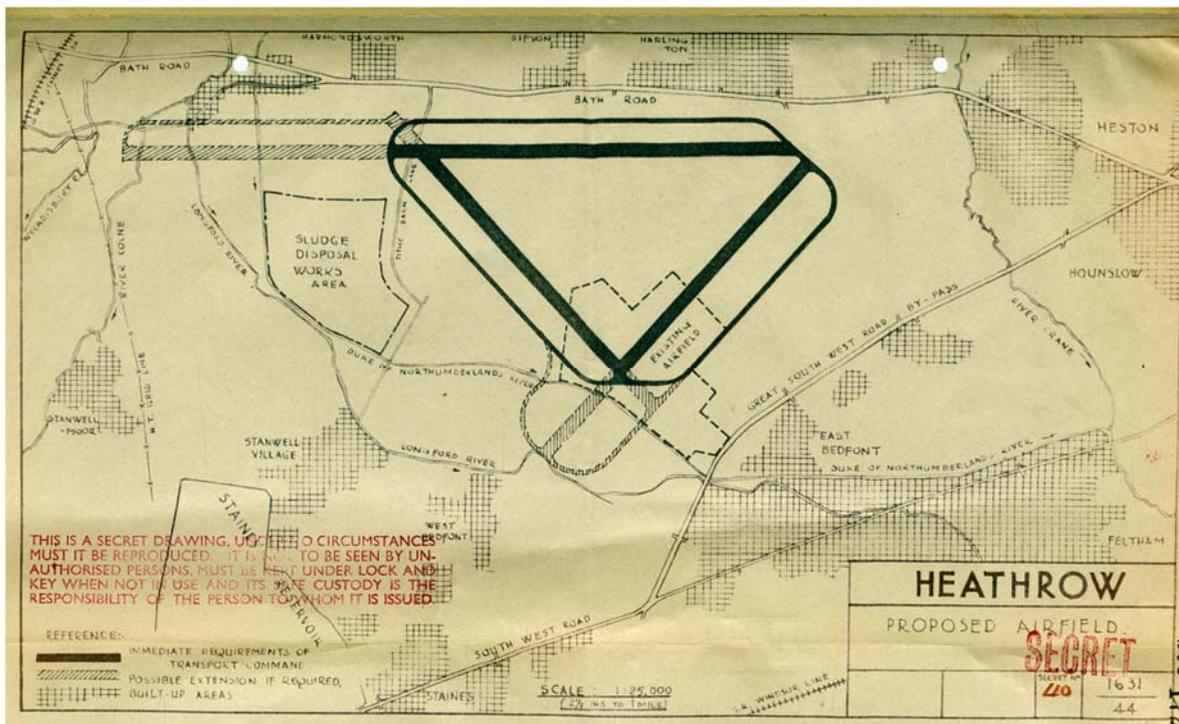
<sup>3</sup> Ministry of Civil Aviation, *British Air Services*, Cmd 6712, December 1945, para 21

<sup>4</sup> Select Committee on Estimates, *Construction of London Airport* (eighth report of session 1947-48), 202, July 1948, paras 2, 3, 5 & 10

and allowed planning to be begun as early as was practicable".<sup>5</sup> However, by 1963 the noise impacts of the airport caused the Committee on the Problem of Noise to report to the Lord President and the Minister of Science that:

Heathrow has proved to have been established in a much too densely populated area, and no good solution to the noise problem is possible ... We are convinced that the degree of exposure to noise in areas close to the Airport will not be materially reduced and, indeed, will get a good deal worse, unless appropriate measures are taken now.<sup>6</sup>

The map below shows the original plans for the Heathrow site, drawn up in the 1940s:



The first aircraft to land at LHR was a BOAC Lancastrian from Australia. There were no terminal buildings and passengers checked in at a temporary tent village on the north side of the airfield. International communications needs were handled by a row of telephone boxes and a mobile Post Office. The only facilities were armchairs, a bar, a WH Smith shop and chemical toilets. By the end of its first year of operation, Heathrow was serving 18 destinations, with 60,000 passengers and 2,400 tons of cargo passing through the airport.

In the 1950s, a new permanent building was built at the airport to replace the existing (ex-military) passenger terminals. By 1961, the old terminal on the north side of the airport had closed and airlines operated either from the Europa terminal (later renamed Terminal 2) or the Oceanic terminal (now Terminal 3). Terminal 1 was opened in 1969 – at the time the largest airport terminal in Europe. Terminal 3 was

<sup>5</sup> *ibid.*, para 29

<sup>6</sup> Committee on the Problem of Noise, *Final Report*, Cmnd 2056, July 1963, paras 306-307

expanded in 1970 to accommodate the new Boeing 747s and in 1976 Concorde began operating from the airport.<sup>7</sup> Terminal 4 was opened in 1986, and in 2009 it underwent a major refurbishment. Terminal 5 was opened in March 2008. In 2010, demolition work on Terminal 2 started and the new Terminal 2 opened in 2014. Terminal 1 closed in 2015.<sup>8</sup>

## 1.1 Terminal 5

**Terminal 5 (T5) opened on 27 March 2008 to a slew of bad headlines after the baggage system failed.<sup>9</sup> British Airways cancelled a number of flights from T5 over the following days and delayed moving all of its operations to the new terminal.<sup>10</sup> The problems cost BA approximately £20 million.<sup>11</sup>**

The public inquiry into the building of a fifth terminal at Heathrow airport began on 16 May 1995 and closed on 17 March 1999 making it the longest in UK planning history. The Inspector told the inquiry that he expected to take up to two years to produce his report;<sup>12</sup> in the end he delivered it to the then Department for the Environment, Transport and the Regions (DETR) in December 2000.<sup>13</sup> On 20 November 2001 the then Secretary of State for Transport, Stephen Byers, announced that the Labour Government had given its approval to the development of T5. He said that conditions had been imposed to protect the interests of those living in the vicinity of the airport.<sup>14</sup>

The then owners of Heathrow, BAA, claimed that the terminal was needed to cope with the projected rise in numbers of passengers from around 58 million then to 80 million in 2013, to maintain Heathrow's position as a world airport hub. BAA argued that because aircraft were getting larger the number of flights would only increase by eight per cent. BAA told the public inquiry that it was prepared to accept a cap on aircraft noise at 1994 levels and a limit on the number of night flights at then current levels. It maintained that noise would not increase because engines were getting quieter and noise monitoring was improving. BAA said that if T5 was rejected the South East of England would run out of airport capacity in five years with damaging effects on the economy. BAA also claimed that opinion polls showed a growing number of local residents supported the terminal.<sup>15</sup>

For a summary of the problems accompanying the opening of T5, see: Transport Committee, *The opening of Heathrow Terminal 5* (12th Report of 2007-08), HC 543, 3 November 2008

<sup>7</sup> for more information on Concorde, see HC Library briefing paper [SN2764](#)

<sup>8</sup> op cit., [Market power determination in relation to Heathrow Airport – statement of reasons](#), Appendix C, and HAH, [Our history](#) [accessed 5 June 2018]

<sup>9</sup> see, e.g., "Disastrous start at Heathrow embarrasses BA", *Financial Times*, 28 March 2008; and "Making history? It is memorable, but for all the wrong reasons", *The Times*, 28 March 2008

<sup>10</sup> "BA postpones shifting flights to T5", *Financial Times*, 12 April 2008

<sup>11</sup> "Terminal chaos costs BA £20m", *The Daily Telegraph*, 31 March 2008

<sup>12</sup> [HC Deb 26 May 1999, c173W](#)

<sup>13</sup> [HC Deb 16 January 2001, c185W](#)

<sup>14</sup> [HC Deb 20 November 2001, cc177-79](#)

<sup>15</sup> *The Heathrow Terminal Five and Associated Public Inquiries: Report by Roy Vandermeer QC*, 21 November 2000; in two volumes, available to view with a Parliamentary ID here: [Chapters 1-20](#) and [Chapters 21-34](#)

The London Chamber of Commerce launched a campaign, 'Business for T5', to promote the benefits of expanding the airport.<sup>16</sup> It claimed that overseas visitors would spend an estimated 10 million fewer nights in Britain if T5 did not go ahead with a loss of about £1 billion to the hotels sector and another £500 million to the wider tourist industry.

HACAN made the case to the inquiry that the arguments used by BAA were fundamentally flawed for a number of reasons, including:

The proposed terminal was designed to handle an extra 30 million passengers per annum with better facilities and without the need for additional runway or night flying – but the runways were already close to full capacity;

The government promised an end to Heathrow expansion when it agreed to the construction of Terminal 4;<sup>17</sup>

The government had promised to limit air transport movements to 275,000 per annum but in 1992 these were already 375,000 per annum; and

Heathrow already imposed more noise on more people than any other international airport in the world and the increased flights required to justify Terminal 5 would add enormously to noise pollution, air pollution, ground congestion and to the real risk of mid-air collision.<sup>18</sup>

Another major objection of local authorities and residents was the effect of any additional traffic caused by T5 on the already over-stretched infrastructure.

BAA plc and Heathrow Airport Ltd lodged a planning application on 17 February 1993 to the London Borough of Hillingdon for a fifth terminal building to be constructed on land which was then occupied by the Perry Oaks sewage sludge works.<sup>19</sup> The applications referred to:

the development of an additional passenger terminal complex together with the provision of aircraft aprons, taxiways and associated facilities including an aircraft hangar;

infrastructure for aircraft maintenance and other tenants' developments;

hotel accommodation, car parking, rail station for facilities for Heathrow Express and London Underground;

connections to the airport road system and the public highway network;

an aircraft visual control room;

re-alignment of rivers and landscaping; and

the development of a fuel farm comprising tankage for storage and supply of aviation fuel together with the provision of

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<sup>16</sup> "Go-ahead urged for fifth Heathrow terminal", *Financial Times*, 10 February 2000

<sup>17</sup> the decision on Terminal 4 was taken by the incoming Conservative Government in late 1979

<sup>18</sup> HACAN, [\*Opening Statement to the Public Inquiry into a Fifth Terminal at Heathrow by the Chairman of HACAN, Dermot Cox\*](#), 16 May 1995

<sup>19</sup> an earlier public inquiry into expansion plans at Heathrow and Stansted, held between 1981 and 1983, had already identified the Perry Oaks site as land onto which the airport should be able to expand

associated facilities including office accommodation, car parking, the construction of roadways and hard-standing and landscaping.

The then Secretary of State for the Environment, Michael Howard, wrote to the Director of Hillingdon Council on 15 March 1993 stating that, as the proposals related to a development of considerable regional and national importance and would give rise to substantial controversy, it was an application that should not be dealt with by Hillingdon. It should instead be dealt with jointly by the Secretaries of State for Environment and Transport under section 77 of the [Town and Country Planning Act 1990](#). The letter also announced plans for a public inquiry.<sup>20</sup>

The public inquiry started on 16 May 1995. The Inspector for the inquiry was Mr Roy Vandermeer QC, assisted by Mr Michael Brundell BA DipTP FRTPI. As outlined above, the inquiry's scope included not just the plans for a new terminal building and taxiways, but also the associated transport infrastructure including a spur to the M25 link roads, proposals for the Heathrow Express railway and an extension to the Piccadilly Underground line. Plans put forward by Thames Water to relocate their Perry Oaks sewage works to Iver South in Buckinghamshire were also considered.

The public inquiry was expected to last about 18 months but actually lasted almost four years. The total cost of the inquiry to all participants is estimated at over £83 million of which the private sector is estimated to have spent some £64 million with the rest borne by central and local government. Government Departments and their agencies spent approximately £11.8 million on the inquiry.<sup>21</sup>

The main organisations opposing the construction of the terminal were HACAN and the all-party coalition of 12 local authorities around Heathrow, Local Authorities Against Terminal 5 (LAHT5). The local authorities are estimated to have spent £6.5 million on the inquiry<sup>22</sup> and because of budgetary restraints had to tell their lawyers to stop attending for a time although they returned at the end of the inquiry to make written submissions. Lawyers from Hillingdon, the local planning authority, apparently stayed.<sup>23</sup>

A press report claimed that a decision had been made to build T5 despite the fact that it had been discovered that the building project could cause flooding;<sup>24</sup> the terminal building would be partly built on the flood plain of the Colne River. Two rivers, the Duke of Northumberland and the Longford, which run parallel to each other, would be diverted. The article claimed that BAA had been asked to carry out water flow tests on the two rivers. A Parliamentary written answer

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<sup>20</sup> *Letter from Michael Howard to Director of Planning, London Borough of Hillingdon*, 15 March 1993 [HC DEP 5317(35)]; see also: Department of the Environment press notice, "Michael Howard calls-in planning application for a fifth terminal at Heathrow Airport", 17 March 1993 [PN 175/93]

<sup>21</sup> [HC Deb 19 December 2000. c117W](#)

<sup>22</sup> [HC Deb 17 December 1997. c196W](#)

<sup>23</sup> "Inquiry caught up in a holding pattern", *Financial Times*, 15 May 1998

<sup>24</sup> "Flooding risk hits Heathrow terminal plans", *Sunday Times*, 22 July 2001

in October 2001 stated that BAA's revised proposal for the diversion of two rivers round the proposed terminal site was still being considered.<sup>25</sup>

In his statement to the House of Commons in November 2001 announcing the Government's approval for the construction of Terminal 5, the Secretary of State for Transport, Mr Byers, explained that the delay in announcing the decision was due to BAA's decision to revise the twin rivers scheme which was a part of the original application. He highlighted the benefits of going ahead with the scheme, as identified by the inspector in his report, as Heathrow's contribution to the economy and more practically the relief of pressure of the existing terminals. He also referred to the problems identified by the inspector, such as: noise; extra road traffic; air quality; intrusion into the green belt; and the effects of construction.

The inspector concluded that the benefits would outweigh the environmental impact as long as the effects were properly controlled. Mr Byers also outlined the following conditions attached to the development of T5:

- A limit on the number of flights each year of 480,000;

- The noise effects of Terminal 5 to be limited by a condition restricting the area enclosed by the 57-decibel noise contour to 145 sq km as from 2016;

- Stricter control on night flights via an extension of the night quota period;

- Promotion of the use of public transport (the extension of the Piccadilly line and Heathrow Express would be required before the new terminal opened);

- Reduction in the provision of car parking places for the airport as a whole below that in the original proposals;

- Rejection of the proposal to widen the M4 between junctions 3 and 4b; and

- Work should not start before approval had been given for the scheme to divert the twin rivers.<sup>26</sup>

The construction cost of Terminal 5 was estimated at around £2.5 billion in 2001.<sup>27</sup> In 1996 the CAA supported BAA's proposal for a pricing formula which would allow it to pre-fund construction of T5. This followed a core recommendation of the Monopolies and Mergers Commission (now the Competition and Markets Authority) that BAA's revenues from landing fees at Heathrow and Gatwick should be allowed to rise by the rate of inflation minus three per cent (RPI-3) for the five years from 1 April 1997. The figures assumed that BAA would be able to pre-fund £230 million of the cost of the terminal. The MMC left the option open to the CAA to back an RPI-8 formula from 1997 to 2002 followed by a sharp increase in landing charges when the terminal opened.

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<sup>25</sup> [HC Deb 23 October 2001, c199W](#)

<sup>26</sup> [HC Deb 20 November 2001, cc177-79](#)

<sup>27</sup> op cit., "Flooding risk hits Heathrow terminal plans"

## 10 Heathrow Airport

The final cost was £4.3 billion.<sup>28</sup> In addition to the main terminal building, T5 also consists of two satellite buildings (the second of which was completed in 2011), 60 aircraft stands, a new air traffic control tower, a 4,000 space multi-storey car park, the creation of a new spur road from the M25, a 600-bed hotel, the diversion of two rivers and over 13km of bored tunnel, including extensions to the Heathrow Express and Piccadilly Line services.<sup>29</sup>

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<sup>28</sup> "[Heathrow's Terminal 5: a great leap forward](#)", *The Daily Telegraph*, 26 January 2008

<sup>29</sup> transport proposals initially mooted by BAA in a 1996 public transport strategy document: BAA, *Making Tracks - Airports as catalysts for public transport*, 1996

## 2. Ownership

The British Airports Authority was established under the *Airport Authority Act 1966*, to take responsibility for four state-owned airports at London Heathrow, Gatwick and Stansted and Prestwick in Scotland. In the next few years, the authority acquired responsibility for Glasgow, Edinburgh and Aberdeen airports.

Twenty years later, the [Airports Act 1986](#) restructured the Authority into a main holding company, BAA plc, with seven separate airport companies operating London Heathrow, Gatwick and Stansted; Edinburgh; Glasgow; Aberdeen; and Southampton airports and an intermediate holding company over the four Scottish airports. It was privatised in July 1987, in a sale which raised £1.2 billion.<sup>30</sup> In June 2006 the Ferrovial Consortium, a Spanish construction firm, bought BAA for £10.3 billion.<sup>31</sup>

In October 2012 BAA changed its name to Heathrow Airport Holdings Ltd (HAHL).<sup>32</sup> The ownership structure of HAHL as of 5 June 2018 is as follows:

- FGP Topco Limited, a consortium owned and led by the infrastructure specialist Ferrovial S.A. (25.00%);
- Qatar Holding LLC (20.00%);
- Caisse de dépôt et placement du Québec [Quebec public pensions investor] (12.62%);
- Government of Singapore Investment Corporation (11.20%);
- Alinda Capital Partners (11.18%);
- China Investment Corporation (10.00%); and
- Universities Superannuation Scheme (USS) (10.00%)<sup>33</sup>

BAA sold off Gatwick, Stansted and Edinburgh between 2009 and 2013 after a [2008 investigation](#) by the competition authorities.

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<sup>30</sup> NAO, *Department of Transport: Sale of Government's shareholding in BAA plc* (session 1987/88), HC 312, February 1988

<sup>31</sup> "Ferrovial lands BAA with final offer of £10.3bn", *The Guardian*, 7 June 2006

<sup>32</sup> HAHL press notice, "[End of 'BAA'](#)", 15 October 2012

<sup>33</sup> HAHL, [Company information](#) [accessed 5 June 2018]

### 3. Regulation

Since the main period of airport privatisation in the late 1980s, the Civil Aviation Authority (CAA) has economically regulated those airports deemed to have market power, setting price controls to protect their users from anti-competitive behaviour.

In December 2012 the [Civil Aviation Act 2012](#) received Royal Assent; this Act fundamentally changed the way the CAA economically regulates airports, effectively providing for a new system of economic licences. It only regulates airports with 'substantial market power', where competition law could not provide sufficient protection for consumers and where the benefits of regulating would outweigh the costs for airport users.

This new system of regulation began in 2014. The CAA saw it as an improvement on the old system, which only permitted the CAA to set minimum service standards and a cap on what airports could charge airlines, every five years. Under the new system, CAA has more flexibility to "tailor regulation to the individual circumstances of each airport", specifically:

By setting out economic licences for regulated airports, the CAA is able to vary the licence conditions imposed on them to best protect passengers, based on the circumstances at each airport. For instance, while a price cap might be appropriate at an airport with high market power where there is little or no competition, this type of regulation is costly for airports and airlines, so may lead to unnecessary expense for passengers if the airport has less market power. In those situations, it might be more appropriate to allow the airport to agree a commercial contract with its airline customers with the regulator only getting involved to ensure the airport sticks to what was agreed.

The new powers also mean we can be much more flexible – under the old system, if something went wrong and passengers lost out, we would have to wait until the end of the price cap period to make any change, potentially five years. The new licence regime will give us the power to make much more rapid changes to licence conditions, to stop passengers suffering. For instance, if an airport performed poorly during bad weather one winter, the CAA would be able to change their licence to give them a duty to ensure it didn't happen again the next year.<sup>34</sup>

In 2014 the CAA concluded that Heathrow had substantial market power and, therefore, required an economic licence from 1 April 2014. The reasons for this judgement were that:

... its position as the operator of the UK's only hub airport and the combined package that Heathrow offers of strong demand, including premium passengers, cargo and connecting passengers. This makes Heathrow attractive for both based and inbound airlines.

Details of Heathrow's economic licence are available to view on the [CAA website](#)

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<sup>34</sup> CAA, [Economic Regulation Briefing](#), CAP 1025, April 2013; information on the old system and how it came to be reformed can be found in HC Library briefing paper [RP 12/07](#)

The airline network effects available at Heathrow means that very few airlines would be able and willing to switch sufficient capacity to constrain an increase in HAL's charges.

Heathrow's good surface access options, the inherent attractiveness of the London market, and its strategic importance to airlines combined with the capacity constraints in the London system act to reduce the available alternatives to airlines.

The strength of airline demand to operate from Heathrow means that HAL would be effectively insulated from the effects of any switching away as a result of higher airport charges.<sup>35</sup>

At the same time the CAA published details of what would be in the licence. The proposed price control licence condition contained a single-till, retail price index (RPI) control of RPI-1.5% per year - less than what the airport asked for and more than the airlines wanted.<sup>36</sup> Passenger experience is now a key part of the regulatory regime. The airport's licence includes a licence condition on operational resilience. This requires Heathrow "so far as reasonably practicable, to secure the availability and continuity of airport operation services, particularly in times of disruption, to further the interests of passengers and cargo owners in accordance with best practice and in a timely, efficient and economical manner".<sup>37</sup> This may help to address concerns about, for instance, the airport's operations during incidents of severe weather.

Heathrow's then chief executive, Colin Matthews, called the RPI-1.5% price control cap a "draconian position", requiring the airport to reduce operational expenditure by more than £600 million, and stretch commercial revenue targets (for things like retail and car park charges) by £100 million.<sup>38</sup> Major airlines using Heathrow were also unhappy with the outcome, though for different reasons. For example, a spokesman for British Airways said that "customers will still be paying more than is warranted and there is plenty of scope for further efficiencies to be made".<sup>39</sup>

These concerns have persisted, with the airlines arguing that the CAA should have more powers available to it to bear down on Heathrow's costs.<sup>40</sup> Andrew Haines, Chief Executive of the CAA, explained to the Committee those areas where there have been arguments made for more CAA powers, where the limitations currently are and why the CAA's powers as enshrined in the 2012 Act are an improvement on the

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<sup>35</sup> CAA, [Notice Of Determination under Section 8 of the Civil Aviation Act 2012: Heathrow Airport](#), CAP 1133, January 2014; the licence will last for 4 years, 9 months

<sup>36</sup> CAA, [Economic regulation at Heathrow from April 2014: notice of the proposed licence](#), CAP 1138, January 2014, p4; prices in 2011/12 money

<sup>37</sup> *ibid.*, p39

<sup>38</sup> HAH press notice, "[Heathrow's response to CAA's Q6 price control decision](#)", 10 January 2014

<sup>39</sup> "[Heathrow hits out at CAA for 'draconian' cut to landing charges](#)", *The Guardian*, 10 January 2014

<sup>40</sup> See, e.g. the comments from IAG and Virgin Atlantic before the Transport Committee in 2018: [Oral evidence: Airports National Policy Statement](#), HC 548, 20 February 2018, Q616; the existing regulatory framework is set out by the CAA in [Consultation on core elements of the regulatory framework to support capacity expansion at Heathrow](#), CAP 1541, June 2017, chapter 2

regulatory environment that existed at the time of, for example, Terminal 5 being proposed:

We certainly have more powers now than were available when terminal 5, and indeed terminal 2, were being spec'd and constructed. We had very limited powers at those times. We have considerably more powers and much more flexibility.

One of the things we are seeing played out is that the airlines, perhaps not unreasonably, are assuming more of the same when these things come forward. There are probably four areas where we do not have powers, where sometimes people think we might have them. The first, as I said, is that we cannot compel investors to invest. We are looking at a licence condition that would compel them to promote the scheme if it is economically rational, but no economic regulator could compel investors to invest if it did not make economic sense.

The second area is about competition ... The legislation is there to allow for competition, but it requires Heathrow's consent. Neither the Secretary of State nor the regulator has the powers; only the CMA—the Competition and Markets Authority—could issue a market investigation, which would probably take three or four years once it had started it. It could propose that.

The third thing where we do not have any powers is around airspace, and collaboration with other airports to facilitate airspace change. The last one is around noise. A lot of people think that the CAA should be enforcing on noise, and that is not our role. Indeed, in the new ICCAN, the Secretary of State is looking more broadly at enforcement powers.

**Luke Pollard:** If regulation is working as well as it could be at the moment, why does Heathrow have the highest charge of any airport anywhere in the world? Surely that is a sign of your regulation not working in bringing down prices.

**Andrew Haines:** There are two answers. The first is that it has two world-class terminals that are being funded entirely through its users. That is pretty unprecedented anywhere in the world. The costs at Heathrow went up rapidly to fund £10 billion-worth of infrastructure for terminal 5 and then terminal 2. In a five-year period, we had two brand new terminals opening and significant redevelopment of terminal 3 and terminal 4. That is why the cost went up very significantly.

Secondly, as I have already said, our powers at those times were very restricted. We set a price cap and then we walked away. That is what the statute said we could do. We now have the ability to issue a licence and to put in place controls. It gives us much more flexibility in how we oversee those costs.<sup>41</sup>

### 3.1 Heathrow price control review H7

The current regulatory controls on the charges and services that Heathrow offers to airlines, and ultimately to consumers, are due to expire on 31 December 2019. In light of this, the CAA launched a review (called 'H7') of the appropriate regulatory arrangements that should be put in place after that date, including its approach to the

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<sup>41</sup> Ibid., Qq647-8

economic regulation of new airport capacity and any associated costs that may be incurred during the current regulatory period (Q6).<sup>42</sup>

During 2017 the CAA issued consultations on the core elements of the regulatory framework to support capacity expansion at Heathrow. These included priorities and timetable for developing the framework for the economic regulation of Heathrow and the CAA's initial thinking on core elements of the regulatory framework for the airport, including the approach to incentives. These consultations stressed the importance of Heathrow delivering capacity expansion "in a way that protects the interests of consumers by ensuring it is delivered in a timely, affordable and commercially financeable manner".<sup>43</sup>

The CAA published a further consultation in December 2017 that took into account of the views of respondents to the previous consultation and:

- explained that the existing regulatory framework can complement a wide range of alternative delivery arrangements, including commercially negotiated contracts and competitive processes for the provision of new elements of capacity expansion and said that CAA expects Heathrow to stand by its commitment to engage in good faith with airlines and third parties coming forward and wishing to discuss and develop such arrangements;
- consulted on its approach to build an evidence base for its decisions about Heathrow's cost of capital for capacity expansion;
- set out its initial thinking on how it should assess the financeability of Heathrow's proposals;
- considered measures to promote the financial resilience of Heathrow that would be consistent with its existing financing arrangements and avoiding any undue costs for the airport and/or consumers;
- discussed the treatment of the construction costs that Heathrow would incur before planning consent is granted; and
- consulted on how best to extend Heathrow's current price control, so that the next price control review can be better aligned with the overall programme for capacity expansion.<sup>44</sup>

On 30 April 2018 the CAA published a further consultation paper seeking views on:

- Heathrow's approach to affordability and financeability, including of new runway capacity;<sup>45</sup>
- How Heathrow engages with airlines and other interested parties that have ideas for alternative commercial and delivery

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<sup>42</sup> CAA, [Heathrow price control review H7](#) [accessed 14 June 2018]

<sup>43</sup> CAA, [Economic regulation of capacity expansion at Heathrow: policy update and consultation](#), CAP 1658, 30 April 2018, paras 2-3; all the relevant documents are available on the [CAA website](#)

<sup>44</sup> *Ibid.*, para 4

<sup>45</sup> This has become a key issue in the debate on a third runway; for more information see section 6.5, below and the Transport Select Committee's scrutiny report of March 2018, in particular [Annex C: Expansion costs, financing and airport charges](#)

arrangements for elements of new capacity, such as terminals, where they can be evidenced to be in the interests of consumers;

- The CAA's approach to the assessment of Heathrow's cost of capital;
- Arrangements that will need to be put in place at the end of the current Q6 price control period, including the implementation of a two year interim price control period to apply from January 2020 (subject to there being no significant changes to the forward work programme for capacity expansion);
- The regulatory treatment of early 'Category C' costs, being pre-Development Consent Order (DCO) construction costs and including certain compensation costs arising from the acquisition of the commercial property necessary to allow for capacity expansion; and
- Surface access policy, especially the 'user pays' principle and whether consumers' interests are "unlikely to be furthered" by funding surface access projects that are not strictly necessary for airport operation/expansion.<sup>46</sup>

On 30 May the CAA published a working paper on Heathrow's cost of capital and incentives.<sup>47</sup>

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<sup>46</sup> Ibid., paras 12-29

<sup>47</sup> CAA, [\*Economic regulation of capacity expansion at Heathrow: working paper on the cost of capital and incentives\*](#), CAP 1674, 30 May 2018

## 4. Noise

Aviation noise can be a source of constant and/or disruptive annoyance to those who live under airport flight paths and for those subject to lower levels of disturbance caused by low flying smaller aircraft and helicopters. This form of noise pollution is explicitly excluded from general noise nuisance legislation.

Further information on aviation noise can be found in HC Library briefing paper [CBP 261](#)

The noise impacts of aviation on individuals and communities have been subject to a number of reports in recent years. There have also been efforts to properly map and monitor noise, including the development of online live data sites which can be used by the public as well as industry.

Suggested measures to tackle noise vary from more controls and restrictions, to charges and better airspace and aircraft design. Some of these measures are exercised by international bodies and the UK Government while others are in the control of the industry – particularly airports. There are also proposals for a new Independent Commission on Civil Aviation Noise (ICCAN), which would help develop airspace and noise policies and act as a guarantee to local people that their noise concerns would be heard.

Finally, for those affected there is the possibility of compensation, particularly in the form of funds for insulation; there will be specific schemes at Heathrow should it receive planning permission to build a third runway (see section 6.4, below).

### 4.1 Impacts around Heathrow

In recent years there has been renewed focus on the impacts of noise from aviation on those living beneath flight paths.

In January 2016 the Aviation Environment Federation (AEF) published a report stating that in the UK, over one million people are exposed to aircraft noise above levels recommended for the protection of health, and that around 460 schools are exposed to aircraft noise at levels around Heathrow “that can impede memory and learning in children”, while around 600,000 people in the UK are exposed to average aircraft noise levels that risk regular sleep disturbance.<sup>48</sup>

In July 2016 the European Commission published a summary of a report looking at how living with aircraft noise affects wellbeing. It found that living within a daytime aircraft noise path (with noise at or above 55 decibels) was negatively associated with all measures of subjective wellbeing: lower life satisfaction, lower sense of worthwhile, lower happiness, lower positive affect balance, and increased anxiety.<sup>49</sup> This followed the publication of the final report of the Airports Commission,

<sup>48</sup> AEF, *Aircraft Noise and Public Health: the evidence is loud and clear*, 12 January 2016

<sup>49</sup> “[How does living with aircraft noise affect wellbeing? A study of UK airports](#)”, *Science for Environment Policy*, Issue 462, 8 July 2016; based on: Lawton, R. and Fujiwara, D. (2016). *Living with aircraft noise: Airport proximity, aviation noise and subjective wellbeing in England*. Transportation Research Part D: Transport and Environment, 42: 104– 118. DOI: 10.1016/j.trd. 2015.11.002

in July 2015. Alongside the report the Commission published a review looking at aircraft noise effects on health. It briefly summarised the strength of the evidence for aircraft noise effects on:

- cardiovascular health;
- sleep disturbance;
- annoyance;
- psychological well-being; and
- effects on children's cognition and learning

It also briefly discussed guidelines for environment noise exposure. Overall, it concluded that:

The health effects of environmental noise are diverse, serious, and because of widespread exposure, very prevalent ... For populations around airports, aircraft noise exposure can be chronic. Evidence is increasing to support preventive measures such as insulation, policy, guidelines, & limit values. Efforts to reduce exposure should primarily reduce annoyance, improve learning environments for children, and lower the prevalence of cardiovascular risk factors and cardiovascular disease ...<sup>50</sup>

Data from the CAA showed that in 2014 the top fifteen airports in the UK accounted for over one-third of the population affected by noise at the European level using standard measurements, with Heathrow accounting for more than a quarter.<sup>51</sup>

The modelled impacts of **expansion** at Heathrow on noise are set out in detail in [Annex H](#) to the Transport Select Committee's scrutiny report of the Government's draft National Policy Statement (see section 6.5, below).

## 4.2 Noise mapping and tracking

Heathrow has a noise and track-keeping computer system which gathers information on both the noise made by aircraft operating to and from the airport and the actual track each aircraft takes. In August 2016 HAML announced that 50 new noise monitors would be added to the airport's existing network.<sup>52</sup>

Over the past ten years major airports have partnered with technology companies to launch interactive aircraft noise websites available to the public. [WebTrak](#) provides live tracking for Heathrow.

The Environmental Research and Consultancy Department (ERCD) of the CAA estimates the noise exposures around Heathrow on behalf of the DfT. The magnitude and extent of the aircraft noise around the airport is depicted on maps by contours of constant aircraft noise index (Leq) values. The contours are generated by a computer model validated with

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<sup>50</sup> Queen Mary University of London, for the Airports Commission, [Aircraft noise effects on health](#), May 2015, p27

<sup>51</sup> CAA, [CAA Insight Note: Aviation Policy For The Environment](#), 2014, p22

<sup>52</sup> HAML press notice, "[50 new noise monitors installed around Heathrow](#)", 17 August 2016

noise measurements, which calculates the emissions and propagation of noise from arriving and departing air traffic. The most recent data covers 2015.<sup>53</sup>

The Department for Transport also publishes noise exposure contour reports for Heathrow on Ordnance Survey (OS) maps produced by the CAA. The most recent data covers 2015.<sup>54</sup>

### 4.3 Measures to deal with noise

Aviation noise is generated mainly by actual aircraft and by airport ground operations, including ground transportation. However, noise from ground operations is largely confined to the airport site and the immediate vicinity, usually along well-established transport corridors where there are limited numbers of residential homes (i.e. along motorways and major A roads). Noise from aircraft is more pervasive and can be heard from a greater distance.

When looking at measures for tackling noise pollution from aviation it is sometimes difficult to separate out those specifically aimed at airports, encompassing the wider array of operations including how aircraft use the airport, from those only aircraft owners and operators can tackle (i.e. in the design and manufacture of quieter aircraft).

The Government's policy on aviation noise is "to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry".<sup>55</sup>

There are a number of ways of dealing with aviation noise, including curtailing expansion, better airspace and flight path design, and quieter aircraft. There are also two regulatory tools which can and are used at Heathrow:

- **Night flights:** Under section 78(3) of the [Civil Aviation Act 1982](#), as amended the Secretary of State may "specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land" at Heathrow.<sup>56</sup> In effect, this means that the Secretary of State can limit the number of flights and the type of aircraft that fly into and out of Heathrow during the early morning (from 2300 to 0700). These are generally referred to as 'night flights'. The current regime expires in October 2017 and in January 2017 the Government published its proposals for new limits to operate between 2017 and 2022. It is proposing to reduce the total noise quota at Heathrow by at least 43% in the winter and 50% in the summer and set a strict cap at the existing level for the number of night flights from Heathrow.<sup>57</sup>
- **Charges:** Under section 38 of the 1982 Act licensed aerodrome authorities have the power to fix their charges in relation to

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<sup>53</sup> DfT, [Noise exposure contours around London airports](#), 12 January 2017

<sup>54</sup> DfT, [Noise exposure contours on Ordnance Survey maps](#), 12 January 2017

<sup>55</sup> DfT, [Aviation Policy Framework](#), Cm 8584, 22 March 2013, para 3.12

<sup>56</sup> as an airport designated for these purposes under section 80 of the Act

<sup>57</sup> for more information see: HC Library briefing paper [CBP 1252](#)

aircraft. In addition, sections 78, 78A and 78B conferred on the aerodrome manager at Heathrow a power to levy financial penalties on an aircraft operator in respect of any breach by that operator of noise abatement requirements imposed by the Secretary of State. It also requires the aerodrome manager to make payments, equal to the amount of penalties received, for the benefit of persons who live in the area around Heathrow. Since the late 1990s, Heathrow has provided a financial incentive for airlines to use the quietest aircraft through the application of variable landing charges.<sup>58</sup>

## 4.4 The future

In February 2017 the Department of Transport published a consultation on UK airspace policy reform.<sup>59</sup> As regards noise, the consultation stated that overall, “aircraft noise is expected to continue to fall in the future compared with today’s levels. This trend has the potential to outweigh the noise from increases in traffic, for example as a result of the proposed airport expansion at Heathrow Airport”.<sup>60</sup>

Section 7 of the paper dealt with ongoing noise management. It proposed an overhaul of how noise is currently regulated at Heathrow, essentially so that the Government would only get involved in significant decisions. The consultation paper explained:

In line with our proposed policy that Government involvement should be determined according to the significance of the decision, rather than the airport in question, our objective would be that night flight restrictions are considered through the planning process or otherwise agreed locally where possible. Expected developments at some of these airports provide such an opportunity. The draft Airports National Policy Statement includes an expectation for a night flight ban at Heathrow Airport, subject to consultation with local communities and relevant stakeholders in accordance with the International Civil Aviation Organisation’s Balanced Approach to noise management. The Secretary of State would therefore have a role in approving these restrictions in line with our proposal.<sup>61</sup>

Further, it proposed that responsibility for setting other types of noise controls, including the ownership of Noise Preferential Routes (NPRs),<sup>62</sup> be transferred to Heathrow airport, “in order to allow [it] to manage noise in the way that best reflects the issues faced by [its local] communit[y]”. Controls “could then be agreed locally or decided through the planning process or airspace change processes, making use of ICCAN’s best practice in the future”.<sup>63</sup> Under this approach, there would still be a role for the Secretary of State in approving any noise

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<sup>58</sup> HAML, *A quieter Heathrow*, May 2013, p20

<sup>59</sup> DfT, *UK airspace policy: a framework for balanced decisions on the design and use of airspace*, CM 9397, 2 February 2017

<sup>60</sup> *ibid.*, para 3.11

<sup>61</sup> *ibid.*, para 7.28-9

<sup>62</sup> *ibid.*, para 7.35-7

<sup>63</sup> *ibid.*, para 7.31

controls associated with Nationally Significant Infrastructure Projects (NSIPs), such as the development of a new runway at Heathrow.

The Government argued that overall this approach “would incentivise airports to engage and consult with their local communities and other industry partners to develop innovative and bespoke solutions to managing specific noise problems”.<sup>64</sup>

The consultation outcome stated that the Government would *not* take forward the proposal to transfer responsibility for noise controls to the designated airports (Heathrow, Gatwick and Stansted). Instead, it would make designated airports responsible for sponsoring such changes, which would require the approval of the Secretary of State.<sup>65</sup>

### **Independent Commission on Civil Aviation Noise (ICCAN)**

The airspace consultation also proposed establishing an Independent Commission on Civil Aviation Noise (ICCAN).

The final report of the Airports Commission into airport capacity, published in July 2015, said that an Independent Aviation Noise Authority (IANA) “should be established with a statutory right to be consulted on flight paths and other operating procedures. The authority should be given statutory consultee status and a formal role in monitoring and quality assuring all processes and functions which have an impact on aircraft noise, and in advising central and local Government and the CAA on such issues”.<sup>66</sup>

In its airspace consultation the Government put forward its proposals for ICCAN, basically its version of IANA. ICCAN’s detailed role in airspace change and planning and ongoing noise management was set out in section 6 of the paper.<sup>67</sup> Specifically as regards Heathrow, it stated that timing would be key in the establishment of ICCAN as “there will soon be live issues, such as the planning process for Heathrow’s proposed third runway ... and the urgent need for airspace modernisation. ICCAN could have a positive impact on these, and we wish to see the influence taking effect as quickly as possible”.<sup>68</sup>

The outcome to the consultation was published in October 2017. This stated that the Government intended to go ahead with ICCAN.<sup>69</sup>

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<sup>64</sup> *ibid.*, para 7.33

<sup>65</sup> DfT, *Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace*, Cm 9520, 24 October 2017, p7

<sup>66</sup> *op cit.*, *Final Report*, p32

<sup>67</sup> further details can also be found in section 3.4 of HC Library briefing paper [CBP 261](#)

<sup>68</sup> *op cit.*, *UK airspace policy: a framework for balanced decisions on the design and use of airspace*, para 6.5

<sup>69</sup> *Op cit.*, *Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace*, p6

## 5. Airspace and use of runways

Airspace is a complex thing to understand, the easiest way to think of it is as a motorway network in the sky. Airspace is the volume of space above ground level and extends as far as aircraft can fly. UK airspace contains a network of corridors, or airways. These are usually ten miles wide and reach up to a height of 24,000 feet from a base of between 5,000 and 7,000 feet. Airspace is either considered to be 'controlled' or 'uncontrolled'. In controlled airspace, there is a system of structured routes and aircraft which are managed by air traffic control (ATC) services. By contrast, a large volume of airspace in the UK is uncontrolled and this is where the pilot of the aircraft does not receive a service from the ground but has to "see and avoid" other aircraft and navigate independently.

Three main organisations have responsibility for UK airspace management and design: the Government (largely the Department for Transport) is responsible for overall aviation policy; the Civil Aviation Authority (CAA), the UK's aviation regulator, is responsible for the planning and regulation of all UK airspace, and at the operational level, NATS is the monopoly provider of en-route air traffic services to aircraft flying in UK airspace.

The current legal and policy framework for airspace is set by Government, in accordance with international and European standards and requirements. Member states of the International Civil Aviation Organization (ICAO), including the UK, collaborate on a common regulatory framework and agree international standards on various issues, including the access to and use of airspace. EU laws implement several of ICAO's resolutions. The main EU initiative in this area is the Single European Sky (SES), launched in 1999 to reform the architecture of European air traffic management. Its implementation is intended to increase the overall efficiency of the European air transport system.

The UK and Ireland is planning to meet the SES requirements through its Future Airspace Strategy, published in June 2011, with a programme to modernise airspace across the UK out to 2030. The biggest changes in the UK are likely to be in the South East of England (whose airspace was designed over 40 years ago), where London's five big airports and many smaller aerodromes create some of the world's busiest and most complex skies.

In February 2017 the Department of Transport published a consultation on UK airspace policy reform. The main proposals in the paper included establishing an Independent Commission on Civil Aviation Noise; providing industry with ways to assess noise impacts and choose between route options to help them manage change more effectively; bringing compensation policy for airspace changes in line with policy on changes to aviation infrastructure; and offering greater flexibility to

Further information on airspace change and modernisation can be found in HC Library briefing paper [CBP 7889](#).

three of London's major airports. The outcome to the consultation was published in October 2017.<sup>70</sup>

## 5.1 Operational freedoms

The South East Airports Task Force, set up by the Coalition Government shortly after the 2010 General Election, reported in July 2011. One of the key measures it recommended regarding Heathrow was the introduction of more 'operational freedoms', such as extension of simultaneous use of runways.<sup>71</sup> The taskforce concluded that there should be a trial of extended simultaneous runway use starting in autumn 2011.<sup>72</sup>

Phase 1 of the trial ran from November 2011 to February 2012, and Phase 2 – with slightly different parameters – ran from July 2012 to February 2013. Heathrow published the outcome of the trials in October 2013. They involved more flexible use of the runway infrastructure, i.e. the use of both runways for arrivals; the use of both runways for departures; redirecting departures after take-off; and the increased use of the southern runway for A380 aircraft, small and light aircraft and Terminal 4 traffic. During Phase 1, the freedoms were used regularly whilst in Phase 2, the freedoms were staggered to provide, as far as possible, a means to assess the benefit of each freedom independent from the others.<sup>73</sup>

The final report concluded that, on balance:

Operational Freedoms, as trialled, delivered useful operational performance improvements in limited areas. While their use did not provide the wholesale significant benefits that could be required to facilitate recovery from the most severe episodes of disruption, Heathrow believes that operational freedoms do help to mitigate against, and recover more quickly from, those less serious disruptive events which still result in poor performance and passenger experience.<sup>74</sup>

With that in mind, it recommended that three operational freedoms should be integrated into standard procedures as soon as practically possible.<sup>75</sup>

However, the CAA thought that the data from the trial was 'inconclusive' and that the benefits claimed by Heathrow Airport in their report had "not been statistically proven". The CAA said that operational benefits of operational freedoms were offset by some redistribution of aircraft noise among local communities, and preliminary work had suggested some detrimental impact.<sup>76</sup>

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<sup>70</sup> DfT, [Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace](#), Cm 9520, 24 October 2017

<sup>71</sup> DfT press notice, "[New measures to cut delays at Heathrow](#)", 14 July 2011; and DfT, [South East Airports Taskforce: Report](#), July 2011, paras 5.11-5.12

<sup>72</sup> *ibid.*, para 5.19

<sup>73</sup> HAML, [Operational Freedoms Trial: Final Report](#), October 2013, p2

<sup>74</sup> *ibid.*, p3

<sup>75</sup> *ibid.*, p3

<sup>76</sup> CAA, [Heathrow Airport Operational Freedoms Trial](#), CAP 1117, October 2013, p9

## 5.2 Optimisation strategy

Taking the CAA's findings on-board, the Airports Commission's December 2013 interim report recommended further ways to make better use of existing capacity, including airport collaborative decision making; airspace changes supporting performance based navigation; enhanced en-route traffic management; and time-based separation. Particularly as regards Heathrow, it further recommended "trials of measures to smooth the early morning arrival schedule to minimise delays and provide more predictable respite for local communities as part of a range of measures to increase the flexibility of runway use".<sup>77</sup>

In his response to the Commission's interim report, the then Secretary of State for Transport, Sir Patrick McLoughlin, asked the CAA to set up a Senior Delivery Group (SDG) to develop and where appropriate lead delivery of a broad 'optimisation strategy' "to improve the efficiency of UK airports and airspace at congested airports, balanced against the needs of local communities".<sup>78</sup>

In July 2014 SDG published its first report, setting out three packages of optimisation measures it intended to progress; these were: operating to schedule; tactical responses to traffic overloads; and investments in route infrastructure. They are described as follows:

- **Operating to schedule:** under this package the SDG would consider the deployment of measures to smooth the flow of traffic and improve punctuality. The measures in scope were: Airport Collaborative Decision Making systems to link up information about the aircraft turnaround phase and optimise runway capacity; Real-time Departure Planning Information to optimise airspace capacity; Queue Management systems to sequence inbound and outbound traffic flows; and Time-Based Separations to maintain arrival rates in strong headwinds.
- **Tactical responses to traffic overloads:** under this package the SDG would consider the impacts of introducing more flexible, temporary measures to reduce the severity of delays as they build up. As part of the package SDG would consider the Airports Commission's recommendation to increase the flexibility of triggers for Tactically Enhanced Arrival Measures (TEAM) at Heathrow.
- **Investments in the route infrastructure:** under this package the SDG would monitor the implementation of new arrival and departure routes for Heathrow and Gatwick, designed to Performance-Based Navigation (PBN) standards. The measures in scope were: PBN Departure Trials to assess route spacing, runway throughput and noise respite opportunities; a PBN Arrivals Trial to test the feasibility of advanced arrival concepts; the development of the LAMP Phase 1 systemised PBN route network; raising the UK Transition Altitude to 18,000ft to create significant additional airspace capacity in the London terminal area; and the design and

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<sup>77</sup> op cit., [Interim Report](#), pp12-13; full details in chapter 5

<sup>78</sup> [HC Deb 15 July 2014, c65WS](#)

development of the LAMP Phase 2 systemised PBN route network.<sup>79</sup>

### 5.3 Departure trials

In 2013-14 Heathrow undertook three further rounds of departure trials, both easterly and westerly. These tested the following:

- Easterly and westerly departure trial 1 (16 December 2013 – 15 June 2014): satellite-based navigation/performance-based navigation and the airport's ability to provide predictable noise respite on aircraft departures;
- Easterly departure trial 2 (28 July 2014 – 12 November 2014): satellite-based navigation/performance-based navigation and resilience on 3 easterly departure routes; and
- Westerly departure trial 2 (25 August 2014 – 12 November 2014): satellite-based navigation/performance-based navigation, resilience and noise respite.<sup>80</sup>

The second round of trials resulted in mixed noise impacts on local communities:

#### **Westerly Trial**

The trial routes introduced new areas to consistent aircraft overflight and generally dispersed flights over a wider area. However, flights were generally found to be more concentrated around routes than previously. This "concentrated-dispersion" and change in route position resulted in significant changes to the shape of the overall noise exposure contours during the trial.

Fewer people were exposed to average aircraft noise levels greater than 54 dB LAeq,16hr during the westerly trial. Most areas where there was a substantial increase in average noise level were in areas outside those that would be considered with traditional measures for aircraft noise assessment (eg 54 dB LAeq,16hr). 98% of people exposed to noise levels greater than 54 dB LAeq,16hr experienced no substantial increases in noise from flights using the trial routes.

Fewer people were exposed to more than 20 and 50 noise events over the 16 hour period during westerly departures.

The trial routes appear to enhance reduction in levels of overflight afforded by the runway alternation pattern. There were some areas that did not experience a reduction in flights by switching runways as a consequence of routes from each converging over their area.

#### **Easterly Trial**

The easterly trial increased the concentration and consistency of aircraft flight tracks. Areas overflowed during the trial period were similar to those prior to the trial.

There were no areas where there was a substantial increase in average noise exposure during the trial. Fewer people were exposed to noise levels greater than 54 dB LAeq,16hr.

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<sup>79</sup> CAA SDG, [Delivery Report #1](#), July 2014, pp5-6

<sup>80</sup> HAH, [Heathrow's airspace trials](#) [accessed 10 November 2016]

As a result of the increased concentration there was an increase in the number of people to experiencing more than 50 events over the average 16 hour day of easterly departures.<sup>81</sup>

Airportwatch said:

The changed, concentrated, routes have been blamed for the “unacceptable and intolerable” noise above a number of Surrey villages. Some of the worse affected areas to the west are Englefield Green, Egham, Thorpe, Virginia Water, Windlesham, Bagshot, Lightwater, Sunninghill and Ascot. Petitions to the airport have been set up in Ascot, Lightwater and now in Englefield Green, asking that the trials be stopped. People feel that even after the end of the trials that ended in June, the increased noise from them has continued. People living under the new, concentrated, routes are now subjected to more, louder, aircraft noise as late as 11.50pm and as early as 6am.<sup>82</sup>

In January 2018 Heathrow launched a [steeper departure trial](#). This followed concerns raised over a number of years by local residents that some aircraft were flying lower, particularly the heavier types of aircraft which are often cited as being the noisiest. In light of this, in 2016 Heathrow carried out some analysis of departing aircraft. The analysis identified that while a number of aircraft were already considerably *exceeding* the minimum noise abatement climb gradient of 4%, there was a large number of heavy aircraft that were climbing *at* 4%.

The trial was set up to raise the minimum noise abatement climb gradient from 4% to 5%, and is taking place between January 2018 and January 2019 on Heathrow’s easterly departure route known as ‘Detling’ as currently there is no data available to show what changes airlines have to make, in order for aircraft to climb higher in order to make the steeper climb.

## 5.4 Operational considerations due to expansion

If Heathrow expansion goes ahead the airport’s operations will have to change to accommodate new flight paths and increased amounts of traffic. As indicated above, an overhaul of the UK’s airspace has already begun and will take many years to complete and implement. Understandably there is an issue about how safe the new operational framework would be.

In September 2014 the CAA published a preliminary safety review of the three schemes under consideration by the Airports Commission and found a number of issues for more detailed investigation and resolution. Specifically, with regards to a third runway it stated that:

The proposal is likely to require new procedures and mitigations to ensure safety of the ATC operation. Due to the intensive and complex nature of the current Heathrow operation, the development of a new 3rd runway will require a complete review and update of the entire operation. There can be no automatic

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<sup>81</sup> Anderson Acoustics, [Westerly and Easterly Departure Trials 2014 - Noise Analysis & Community Response](#), 9 August 2015, p36

<sup>82</sup> Airportwatch press notice, [“Anger as Heathrow’s latest flight path trials subject thousands to unacceptable noise levels”](#), 19 September 2014

reliance on previous mitigations which are likely to have been designed for different scenarios. This could provide an opportunity to exploit safety enhancements that may be now available with an expanded infrastructure and increased resilience.

Note: The operation associated with noise respite periods 2 and 3, where aircraft are departing from adjacent runways may be particularly difficult to achieve given the staggered position of the northern runway. Further work will be required to understand whether these modes are viable.<sup>83</sup>

It also stated that the design was “likely to require a dependency with RAF Northolt to ensure safe separations, which could further reduce capacity at either or both airports. Any impacts on RAF Northolt procedures need to be understood and assessed”.<sup>84</sup>

Finally, the CAA considered whether a third runway could be progressed without the need for significant safety analysis of the concept to prove that it could be delivered safely without subsequent safety mitigations restricting traffic capacity and flow even further than already assumed. On this, it concluded that:

Missed Approach Procedures (including when procedure is not followed) and likely dependency with RAF Northolt needs to be assessed further to understand the risks and effects on capacity. A worst case impact may be one movement less at Heathrow for every movement permitted at RAF Northolt.

Some proposed modes of operation and runway separation/stagger may be difficult to operate safely and could therefore limit respite opportunities.<sup>85</sup>

The Airports Commission’s final report had nothing substantive to say about this.<sup>86</sup>

In December 2017 Heathrow Hub, which supports an alternative scheme of extending the existing northern runway, published a report which concluded that, overall: “the NWR scheme requires such complex airspace that it will not be able to deliver on its claimed capacity, noise and respite figures”.<sup>87</sup>

In evidence to the Transport Select Committee in February 2018 the Chief Executive of the CAA, Andrew Haines, said:

... we did work for the Airports Commission back in 2014 and found that there was no obvious impediment to any one of the three schemes being developed. There were issues that would need to be dealt with. In Heathrow’s case, there was the proximity to Northolt; the precise location of the air traffic control tower; and how you would deal with missed approaches. None of them appeared to us to be things that, with the right design, were insuperable obstacles [...]

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<sup>83</sup> CAA, [Airports Commission shortlisted options - Module 14: Operational Efficiency preliminary safety review](#), CAP 1215, September 2014, p28

<sup>84</sup> *ibid.*, p29

<sup>85</sup> *ibid.*, p31

<sup>86</sup> see, e.g. *op cit.*, [Final Report](#), pp243-4

<sup>87</sup> Heathrow Hub press notice, [“Independent safety review reveals “significant flaws” of third runway at Heathrow”](#), 4 December 2017

We are in a much better place to deliver airspace change now than we were even 18 months ago. There is uncertainty because it needs co-operation from all the players and because there will be local resistance. We are much better placed to deal with those things now than if we had been having this conversation two years ago.<sup>88</sup>

The National Policy Statement (NPS), published in June 2018, states:

... environmental, safety, social and economic benefits and adverse impacts should be considered at national, regional and local levels. These may be identified in the Airports NPS, or elsewhere. The Secretary of State will also have regard to the manner in which such benefits are secured, and the level of confidence in their delivery.<sup>89</sup>

It further states that:

Precise flight path designs can only be defined at a later stage after detailed airspace design work has taken place. This work will need to consider the various options available to ensure a safe and efficient airspace which also mitigates the level of noise disturbance. Once the design work has been completed, the airspace proposal will be subject to extensive consultation as part of the separate airspace decision making process established by the Civil Aviation Authority.<sup>90</sup>

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<sup>88</sup> [Oral evidence: Airports National Policy Statement](#), HC 548, 20 February 2018, Qq660 & 664

<sup>89</sup> DfT, [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#), 5 June 2018, para 4.5

<sup>90</sup> *Ibid.*, para 5.50

## 6. Expansion

### 6.1 Government policy

#### Labour, 1997-2010

In 2002 the Labour Government published a series of consultation documents seeking views on the future development of air transport in the UK.<sup>91</sup> In the consultation on the South East of England the Government proposed a new short runway for Heathrow.<sup>92</sup> Stakeholder responses to the consultation process were mixed. While organisations representing the aviation industry were keen to emphasise the material and commercial benefits of significant airport expansion in the South East,<sup>93</sup> conservation and consumer groups contested the need for air transport expansion at all.<sup>94</sup>

The subsequent December 2003 White Paper, *The Future of Air Transport*, offered support for the development of Heathrow, including a new runway, provided that strict environmental limits could be met. The White Paper stated that demand for Heathrow was 'very strong' and would always likely be 'far in excess' of capacity. Overall, the White Paper stated that the Government supported a third runway at Heathrow, to be built after a second runway at Stansted, probably in the period 2015-2020. The then owners of Heathrow, BAA, stated in their submission to the consultation preceding the White Paper that a third runway would require the building of a sixth terminal outside of the current airport boundary. With that in mind, the White Paper recommended that BAA carry out work on further proposals for terminal capacity and an appraisal of the potential impacts, on the basis of which a further consultation would be required.

In November 2007 the Government published a consultation document on the future of Heathrow, and, in particular, whether a third runway should be built and mixed mode be introduced. The main issues outlined in the document were as follows:

- Support for a third runway and sixth terminal, conditional on no increase in the size of the area significantly affected by aircraft noise (as measured by the 57dBA Leq noise contour in 2002); being confident of meeting European air quality limits around the airport, in particular for nitrogen dioxide (NO<sub>2</sub>) which is the most critical local pollutant around Heathrow; and improving public transport access to the airport;

All of the documents pertaining to the consultation, which closed in February 2008, are available on the [Department for Transport's archived website](#).

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<sup>91</sup> DfT, *The Future Development of Air Transport in the UK: South East, Second edition*, February 2003; see also: DfT, *South East and East of England Regional Air Services Study (SERAS): Appraisal findings report*, April 2002

<sup>92</sup> *ibid.*, *The Future Development of Air Transport in the UK: South East, Second edition*, paras 7.4-7.6

<sup>93</sup> see, for example: BAA, *Responsible Growth: BAA's response to the Government's consultation on the future of air transport*, May 2003

<sup>94</sup> see, for example: *The response of HACAN ClearSkies to the The Future of Air Transport in the United Kingdom: South East Consultation Document*, November 2002

- A revised proposal by BAA for adding a third runway north of the A4 (2,200 metres (m) operational length compared with the original 2,000m proposal), with associated passenger terminal facilities and access to the road and rail networks. This could potentially enable the airport to handle around 700,000 air transport movements (ATMs) a year, a nearly 50 per cent increase;
- Proposals for introducing mixed mode on the existing two runways, either with or without additional ATMs, as an interim measure ahead of a third runway. Runway alternation would have to cease during mixed mode operations; and
- Whether adding a third runway at Heathrow could provide capacity to increase movements in the night period.<sup>95</sup>

Shortly after the consultation was published, anti-expansion groups, led by HACAN, stated that they would challenge the building of a third runway on economic as well as environmental grounds.<sup>96</sup> Later, in March 2008 *The Sunday Times* ran a story, based on documents obtained under the Freedom of Information Act, to the effect that “the airports operator BAA colluded with government officials to “fix” the evidence in favour of a new third runway at Heathrow”.<sup>97</sup> The Government repeatedly stressed that this was not the case.<sup>98</sup>

On 15 January 2009 the then Secretary of State for Transport, Geoff Hoon, announced the Government’s support for a third runway and new terminal at Heathrow, conditional on environmental and air quality criteria being met and additional ground transport capacity being added.<sup>99</sup> He also indicated that the Government had concluded that mixed mode should not go ahead, but that the Cranford Agreement should end, permitting easterly take offs from the northern runway.<sup>100</sup>

In its manifesto for the 2010 General Election the Labour Party rowed back a little on the predict-and-provide approach in the 2003 White Paper. It stated that it would “not allow additional runways to proceed at any other airport [apart from Heathrow] in the next Parliament”.<sup>101</sup>

### Conservative-Liberal Democrat Coalition, 2010-15

Before the 2010 General Election the Conservative Party had indicated that it was opposed to a third runway and a sixth terminal at Heathrow and campaigned against it. In 2009 the then Shadow Transport Secretary, Theresa Villiers, said that the Conservatives would “fight [the Labour Government] every step of the way” on Heathrow expansion.<sup>102</sup> Subsequently, the Conservative Party Manifesto for the 2010 election

<sup>95</sup> DfT, [Adding capacity at Heathrow Airport: consultation document](#), 22 November 2007, pp8-9

<sup>96</sup> “Report attacks Heathrow expansion”, *The Times*, 2 December 2007

<sup>97</sup> “Revealed: the plot to expand Heathrow”, *The Sunday Times*, 9 March 2008; the documents in question are: [FOI 1](#), [FOI 2](#), [FOI 3](#), and [FOI 4](#)

<sup>98</sup> see, e.g.: [HC Deb 2 April 2008, cc880-881](#); and [HC Deb 11 November 2008, c674](#)

<sup>99</sup> [HC Deb 15 January 2009, cc357-358](#); the documentation published alongside the Secretary of State’s statement, including a report on the consultation responses, is available on the [DfT archive website](#)

<sup>100</sup> *ibid.*, c357

<sup>101</sup> Labour Party, [A Future fair for All: The Labour Party Manifesto 2010](#), April 2010, p1:8

<sup>102</sup> [HC Deb 15 January 2009, c360](#)

stated: "Our goal is to make Heathrow airport better, not bigger. We will stop the third runway and instead link Heathrow directly to our high speed rail network, providing an alternative to thousands of flights".<sup>103</sup> Following the 2010 General Election and the formation of the Conservative-Liberal Democrat Coalition Government, the Coalition Agreement stated: "We will cancel the third runway at Heathrow".<sup>104</sup>

Heathrow Airport Holdings Limited (then BAA), the owners of Heathrow, consequently announced that they would abandon their plans for a third runway and a sixth terminal at the airport.<sup>105</sup> However, there followed concerted lobbying by the airport itself, the main airlines that use it and by business to persuade the Government to look again at its policy on Heathrow.<sup>106</sup>

Consequently, the Government set up the independent Airports Commission under the chairmanship of Sir Howard Davies in September 2012, charging it to report on long term capacity options by summer 2015. **For more information on the Commission's work, see section 6.3, below.**

### Conservatives, 2015-

Unlike in 2010, the Conservative Party's manifesto for the 2015 General Election did not mention Heathrow, it only said that if it formed the next Government it would "respond to the Airports Commission's final report".<sup>107</sup> When the Commission's final report was published in July 2015, recommending support for a third runway at Heathrow over expansion at Gatwick, the then Secretary of State for Transport, Sir Patrick McLoughlin, said that he would study the evidence base and decide how to proceed.<sup>108</sup>

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<sup>103</sup> Conservative Party, *Invitation to join the government of Britain: General Election Manifesto 2010*, April 2010, p23

<sup>104</sup> HMG, *The Coalition: Our Programme for Government*, May 2010, p16

<sup>105</sup> BAA Heathrow press notice, "[Heathrow updates local residents](#)", 24 May 2010

<sup>106</sup> see, e.g. London's Connectivity Commission for London First, *London, Britain and the world: Transport links for economic growth*, February 2012; Heathrow Airport press notice, "[UK will lose over 140,000 jobs without urgent action on aviation](#)", 7 March 2012; and: Frontier Economics, *Connecting for growth: the role of Britain's hub airport in economic recovery*, September 2011

<sup>107</sup> Conservative Party, *Strong Leadership. A Clear Economic Plan. A Brighter More Secure Future: The Conservative Party Manifesto 2015*, 14 April 2015, p14

<sup>108</sup> [HC Deb 1 July 2015, c1484](#)

### Brexit

On 23 June 2016 the United Kingdom voted to leave the European Union. The Prime Minister, Theresa May, triggered Article 50 of the Treaty on European Union on 29 March 2017 to begin the process of exit. The UK is currently in the process of negotiating its exit from the EU.

The UK and EU negotiating teams reached agreement in March 2018 on the terms of a transition or implementation period that will start on 30 March 2019, when the UK formally ceases to be a member of the EU, and last until 31 December 2020. The agreed text states that “Union law shall be applicable to and in the United Kingdom during the transition period”. The limited exceptions to this are set out in the published text.<sup>109</sup>

As those negotiations are ongoing, we do not yet know with any certainty what the effects of Brexit on transport policy, industry, services and operations will be. More information on Brexit and its possible implications for aviation can be found in HC Library briefing paper [CBP 7633](#).

In October 2016 the Secretary of State for Transport, Chris Grayling, announced that the Government would support a third runway at Heathrow and would bring forward a draft National Policy Statement (NPS) and a consultation on airspace change in 2017.<sup>110</sup> Mr Grayling stated that the Government would give three assurances as regards Heathrow expansion: to tackle air quality and noise; keep costs down; and ensure that the whole UK would benefit from expansion.<sup>111</sup> At the same time Mr Grayling published a ‘statement of principles’, a non-binding agreement between Heathrow and the Secretary of State in relation to the north-west runway scheme.<sup>112</sup>

The draft NPS and the consultation on airspace change were published in February 2017.<sup>113</sup> However, because of the June 2017 General Election, scrutiny of the NPS – and subsequently the Government’s timeline for parliamentary approval – was delayed and is now expected to be completed in summer 2018.<sup>114</sup> The Government relaunched the public consultation on a revised draft NPS in October 2017 following feedback from its initial consultation process.<sup>115</sup> The draft NPS was subsequently scrutinised by the Transport Select Committee, which published their report in March 2018.<sup>116</sup> The Government published the final NPS on 5 June.<sup>117</sup> It will be subject to approval by a vote in Parliament within 21 sitting days. **More information on the NPS process is given in section 6.5, below.**

<sup>109</sup> DfT, [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England Change Log](#), June 2018, para 1.25

<sup>110</sup> [HC Deb 25 October 2016, cc162-66](#)

<sup>111</sup> *ibid.*

<sup>112</sup> DfT, [Heathrow Airport Limited: statement of principles](#), 25 October 2016

<sup>113</sup> DfT, [Heathrow expansion: draft Airports National Policy Statement](#) and [Reforming policy on the design and use of UK airspace](#), both 2 February 2017

<sup>114</sup> [Update on draft Airports National Policy Statement process: Written statement - HCWS119](#), 7 September 2017

<sup>115</sup> DfT press notice, [“Government outlines next steps for delivering airport expansion”](#), and DfT, [Revised Draft Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#), both 24 October 2017

<sup>116</sup> Transport Committee press notice, [“Airports National Policy Statement: more work needed before Parliamentary approval”](#), 23 March 2018

<sup>117</sup> DfT, [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#), 5 June 2018

In July 2017 the Government published a call for evidence on a new, long-term aviation strategy. It was centred around six themes:

- Customer service;
- Safety and security;
- Global connectivity;
- Competitive markets;
- Supporting growth while tackling environmental impacts; and
- Innovation, technology and skills.<sup>118</sup>

In April 2018 the Government announced its 'next steps' in taking forward the strategy.<sup>119</sup> It is aiming to hold a formal public consultation on its draft strategy in autumn 2018 and to publish its final strategy in the first half of 2019.<sup>120</sup>

## 6.2 Other views

### Labour

In the 2015 Election Labour ran on a manifesto promising to "make a swift decision on expanding airport capacity in London and the South East, balancing the need for growth and the environmental impact".<sup>121</sup>

The Party's 2017 election manifesto stated that Labour "recognises the need for additional airport capacity in the South East". It welcomed the work of the Airports Commission (see below) and said that it would "guarantee that any airport expansion adheres to our tests that require noise issues to be addressed, air quality to be protected, the UK's climate change obligations met and growth across the country supported".<sup>122</sup>

In the Commons on 5 June 2018 the Shadow Secretary of State for Transport, Andy McDonald, reiterated that:

Labour will consider proposed expansion through the framework of our well-established four tests: expansion should happen only if it can effectively deliver on the capacity demands; if noise and air quality issues are fully addressed; if the UK's climate change obligations are met in their entirety; and if growth across the country is supported. We owe it to future generations to get all those factors absolutely right. If the correct balance is not found, the law courts will quite rightly intervene.<sup>123</sup>

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<sup>118</sup> DfT press notice, "[Government sets out vision for future of UK aviation](#)", 21 July 2017; see also: DfT, [Beyond the horizon: The future of UK aviation - A call for evidence on a new strategy](#), July 2017

<sup>119</sup> DfT press notice, "[Government puts consumers at heart of the aviation industry](#)", 7 April 2018

<sup>120</sup> DfT, [Beyond the horizon: The future of UK aviation – Next steps towards an aviation strategy](#), April 2018, p84

<sup>121</sup> Labour Party, [Britain can be better: The Labour Party Manifesto 2015](#), April 2015, p19

<sup>122</sup> Labour Party, [For the Many Not the Few: The Labour Party Manifesto 2017](#), May 2017, p92

<sup>123</sup> [HC Deb 5 June 2018, c172](#)

On 20 June Labour stated that in its view the National Policy Statement for a North West Runway does not meet its four tests and that it would oppose the scheme and support a free vote in the House of Commons (see section 6.5 below for more information).<sup>124</sup>

Sadiq Khan, the Labour Mayor of London, opposes expansion at Heathrow, mainly on environmental grounds.<sup>125</sup> Written evidence submitted to the Transport Select Committee in November 2017 stated:

The Mayor remains opposed to Heathrow expansion given its dire environmental and surface access impacts. Government has now shown Heathrow does not even offer the greater economic benefit of its short-listed schemes [...] Government has failed to show that a third runway can be delivered without legal limits for air quality being breached: it is hard to believe that the promoter will be able to do better. Expansion at Heathrow cannot be taken forward on this deeply flawed basis.<sup>126</sup>

### Liberal Democrats, Green Party & DUP

The Liberal Democrats and the Green Party are opposed to Heathrow expansion. The **Liberal Democrats'** manifesto for the 2017 General Election contained an explicit statement of opposition to expansion.<sup>127</sup> The **Green Party's** manifesto pledged to "cancel all airport expansion".<sup>128</sup>

The **DUP** generally supports expansion. When the UK Government indicated its support for a third runway in October 2016 the then Northern Irish Minister for the Economy, the DUP's Simon Hamilton, "warmly welcomed" the decision. He went on:

... the business community in Northern Ireland will welcome it and that everybody in Northern Ireland should praise the Government for their decision, because our connectivity, as we know ... is incredibly important. We need more direct routes from Belfast and I am glad that we are increasing them. London is a key business route in and of itself, for Northern Ireland, and Heathrow is a crucial hub airport that is a gateway to the world.<sup>129</sup>

### Scotland

The Scottish Government announced in October 2016 its support for a third runway at Heathrow, after signing a Memorandum of Understanding with Heathrow to guarantee jobs, supply chain opportunities and domestic routes.<sup>130</sup> Keith Brown MSP, Cabinet Secretary for Economy, Jobs and Fair Work stated:

We ... look forward to working with Heathrow to bring the significant benefits of a third runway at the airport to Scotland...It's now crucial that the UK Government starts work on

<sup>124</sup> Labour Party press notice, "[Labour: Four Tests on Heathrow expansion not met](#)", 20 June 2018

<sup>125</sup> See, e.g. [HC Deb 26 November 2015, c1554](#) and Mayor of London press notice, "[London Mayor hits out at Government over runway delay](#)", 19 October 2016

<sup>126</sup> [Written evidence submitted by the Mayor of London \(NPS0036\)](#), November 2017

<sup>127</sup> Liberal Democrats, [Change Britain's Future: Liberal Democrat Manifesto 2017](#), April 2017, p63

<sup>128</sup> Green Party, [The Green Party for a confident and caring Britain](#), May 2017, p23

<sup>129</sup> [NIA Official Report, 25 October 2016, T4](#)

<sup>130</sup> Transport Scotland press notice, "[Support for Heathrow expansion](#)", 10 October 2016

this immediately and puts in place measures to secure guaranteed access to Heathrow for Scotland's airports.<sup>131</sup>

The SNP Transport Spokesman in Westminster, Alan Brown, said on 5 June 2018:

I must be honest: for me, supporting expansion at Heathrow from a Scottish perspective was initially counter-intuitive. However, all but one of the Scottish airport operators support it. So do the various Scottish chambers of commerce, because they recognise the business benefits that it can bring to Scotland, including up to 16,000 new jobs. That helped to sway me, and the Scottish Government have reiterated their support.<sup>132</sup>

## Wales

In March 2017 the Welsh Government and Heathrow signed a 'Strategic Partnership'. This was described by the First Minister, Carwyn Jones, as:

[... opening] the door to explore a wide range of new opportunities particularly for our existing supply chain companies that have the experience and expertise to support infrastructure projects at Heathrow [...] plans are already underway to host the first Heathrow business summit in Wales, where our supply chain companies will have the chance to meet and discuss opportunities with Heathrow's procurement team.<sup>133</sup>

Opposition parties in Wales criticised the agreement for lacking substance.<sup>134</sup>

When the UK Government indicated its support for a third runway in October 2016 Mr Jones welcomed the announcement but said he wanted to see:

- A fair allocation of landing slots,
- A spur rail link to Heathrow from the mainline allowing direct rail travel from South Wales,
- Any spending consequentials due under the Barnett formula.<sup>135</sup>

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<sup>131</sup> Transport Scotland press notice, "[Heathrow expansion](#)", 25 October 2016

<sup>132</sup> [HC Deb 5 June 2018, cc175-6](#)

<sup>133</sup> Welsh Government press notice, "[New partnership with Heathrow puts Wales on flightpath to growth](#)", 6 March 2017

<sup>134</sup> "[Heathrow to Wales flights 'could bid for funds'](#)", *BBC News*, 6 March 2017

<sup>135</sup> "[Carwyn Jones demands a direct rail link to Wales as Heathrow's expansion is approved](#)", *Wales Online*, 25 October 2016

### 6.3 Airports Commission, 2012-15

On 7 September 2012 the then Secretary of State for Transport, Sir Patrick McLoughlin, announced that he had asked Sir Howard Davies, the former chairman of the Financial Services Authority, to chair an independent commission tasked with “identifying and recommending to Government options for maintaining the UK’s status as an international hub for aviation”.<sup>136</sup>

The Terms of Reference tasked the Commission with examining the scale and timing of any requirement for additional hub capacity and identifying and evaluating how any need for additional capacity should be met in the short, medium and long term. The Commission was asked to report before the end of 2013 with recommendations for immediate actions to improve the use of existing runway capacity in the following five years.<sup>137</sup> It was asked to publish a final report no later than summer 2015 on the UK’s long term international connectivity needs and recommendations on how to meet them.<sup>138</sup>

The Commission had five other members, in addition to Sir Howard: Sir John Armitt; Professor Ricky Burdett; Vivienne Cox; Professor Dame Julia King; and Geoff Muirhead CBE.<sup>139</sup> In November 2012 the Commission published an operating protocol, setting out its intended working practices, how it would gather evidence, and its intention to appoint an External Advisory Panel.<sup>140</sup> The Panel was made up of 21 members, whose role was to help the Commission to “access, interpret and understand evidence relating to the Commission’s work, and to make judgements about its relevance, potential and application”.<sup>141</sup> The Panel was advisory and had no executive powers.

#### Interim Report and subsequent consultation, December 2013

On 17 December 2013 the Commission published its interim report. It concluded that there was a need for one net additional runway to be in operation in the South East by 2030 and that there was likely to be a demand case for a second additional runway to be operational by 2050.

The Commission announced that it would take forward for further detailed study proposals for new runways at Gatwick and Heathrow.

All of the reports, consultations and working papers published by the Airports Commission are available on its [archived website](#).

<sup>136</sup> [HC Deb 7 September 2012, c41WS](#)

<sup>137</sup> Airports Commission, [Terms of reference](#), September 2012

<sup>138</sup> *ibid.*

<sup>139</sup> information from [Gov.uk](#) [accessed 19 January 2017]

<sup>140</sup> Airports Commission, [Operating protocols for the Airports Commission](#), 2 November 2012

<sup>141</sup> Airports Commission, [Expert Advisory Panel: Terms of Reference](#), 2012

### 'Hub' airports

Heathrow is the UK's only international 'hub' airport. 'Hub' airports are essentially large airports which have a significant number of routes, as the Government's March 2013 aviation policy framework states: "a key characteristic of hub airports across the world is that they are able to serve destinations that other airports are not. This is because a hub airport supplements local demand with transfer passengers, providing traffic volumes which support higher frequencies of services on more popular routes, and enabling services on more marginal routes that would not otherwise have proved viable with fewer passengers".<sup>142</sup>

The Airports Commission's July 2015 final report explained how consolidation in the airline industry and the associated rise of alliances has resulted in "the expansion of 'hub-and-spoke' networks run by major carriers at the world's largest airports". In these networks, "airlines and alliances route their traffic through one or more focal airports ('hubs'), with feeder traffic from other airports in the network ('spokes') supplementing local origin and destination traffic. For passengers, the hub-and-spoke model maximises the choice of direct destinations at the hub airport and offers potential to travel to a very wide variety of destinations on one ticket".<sup>143</sup>

In Europe, the major hubs are:

- Air France-KLM at Amsterdam Schiphol;
- Air France-KLM at Paris Charles de Gaulle;
- Lufthansa at Frankfurt International; and
- British Airways at London Heathrow.<sup>144</sup>

The two options for Heathrow were Heathrow Airport Holdings Ltd.'s proposal for one new 3,500m runway to the north west of the current site and Heathrow Hub's proposal to extend the existing northern runway to at least 6,000m, enabling the extended runway to operate as two independent runways.

The Commission reported that many of the features and impacts of the two Heathrow options were broadly the same. The costs for each would be higher than those for most single runway options considered at other sites, although less than those for a south west runway option at Heathrow. Estimated as costing £13-18 billion by 2030, the costs were, however, "much lower than most options with four or more runways, in many cases by several orders of magnitude".<sup>145</sup> However, each proposal had different, specific, impacts as set out by the Commission in its report.<sup>146</sup>

HAHL welcomed the Commission's report and in particular the short-listing of the new north west runway option.<sup>147</sup> Heathrow Hub also welcomed the inclusion of their proposal for an extended northern runway in the Commission's report.<sup>148</sup> HACAN, the body that

<sup>142</sup> DfT, *Aviation Policy Framework*, Cm 8584, March 2013, para 1.38

<sup>143</sup> Airports Commission, *Final Report*, 1 July 2015, p13

<sup>144</sup> *ibid.*, p13

<sup>145</sup> Airports Commission, *Interim Report*, 17 December 2013, para 6.91

<sup>146</sup> *ibid.*, paras 6.101-6.111

<sup>147</sup> HAHL press notice, "[Heathrow north-west third runway option short-listed by Airports Commission](#)", 17 December 2013

<sup>148</sup> Heathrow Hub press notice, "[Heathrow Hub shortlisted by Airports Commission in its Interim Report](#)", 17 December 2013 [Heathrow Hub is not affiliated to HAHL, for more information visit its [website](#)]

campaigns against aircraft noise around Heathrow, stated that the report was “the trigger to 18 months of intense campaigning against Heathrow expansion”. John Stewart, Chair of HACAN, said: “The scale of the opposition will be so great that we believe that [the Heathrow options] are politically undeliverable and should have been dropped at this stage”.<sup>149</sup>

In November 2014 the Commission published for consultation its assessment of proposals for additional runway capacity at Gatwick and Heathrow. It invited public comment on its detailed consideration of each proposal. This included analysis of the cost of each proposal, the effect on communities of noise, property loss and construction, and the economic benefits and environmental impacts. The purpose of the consultation was to test the evidence base the Commission had assembled; understand stakeholders’ views as to the accuracy, relevance and breadth of the assessments it had undertaken; and seek views on the potential conclusions that might be drawn from them. There were three separate business cases and sustainability assessments as well as information from the three scheme sponsors (Gatwick Airport, HAHL and Heathrow Hub) and a number of technical reports.<sup>150</sup>

The main headline in the consultation was the difference in cost: the Commission projected that the Gatwick scheme would cost approximately £2 billion more and the two Heathrow schemes between £3 billion and £4 billion more than their sponsors originally estimated. However, the consultation paper made it clear that the differences between the sponsors’ estimates and the Commission’s estimates were in large part a result of differing opinions on the application of risk and optimism bias (and for Heathrow Hub/extended runway some smaller differences of opinion on taxiway, land and car parking costs).<sup>151</sup>

### Final report, July 2015

The final report was published on 1 July 2015. Various estimates put the total cost of the Commission’s work at about £20 million.<sup>152</sup> However, the Government subsequently put the official cost at £13.4 million.<sup>153</sup>

There was some concern expressed about the independence of the report, and particularly that of Sir Howard Davies. This was based on various reports as to conflicts of interest in his business dealings (e.g. Sir Howard’s role chairing the Risk Committee of Prudential plc. and his role as an advisor to the Investment Strategy Committee of GIC Private

<sup>149</sup> HACAN press notice, “[Campaigners vow to fight any expansion at Heathrow](#)”, 17 December 2013

<sup>150</sup> Airports Commission, [Increasing the UK’s long-term aviation capacity](#), 11 November 2014

<sup>151</sup> *ibid.*, pp26-28, 47-48 [Gatwick], 65-66 [HAHL], and 81-82 [Heathrow Hub]

<sup>152</sup> e.g. “[Heathrow Airport expansion: Nine things you need to know](#)”, *The Independent*, 1 July 2015; and “[Heathrow expansion: After three-years and £20m inquiry, Airports Commission makes clear call for third runway](#)”, *London Evening Standard*, 1 July 2015

<sup>153</sup> [HL Deb 7 September 2015, c1216](#)

Ltd., which part-owns H AHL).<sup>154</sup> The Treasury Solicitor wrote to the Teddington Action Group on the GIC issue and said that Sir Howard “did not have any involvement in individual investment decisions in any event while he was there. Neither did he hold any shares or have any financial interest” in the company. The Solicitor concluded: “There is accordingly no presumed bias ... as to apparent bias, the fair minded and informed observer would not have any concerns as to [his] involvement with this company, prior to his taking up his post at the Commission...”.<sup>155</sup>

The final report rehearsed the arguments made in earlier reports about economic growth, demand and environmental protection and concluded that all three shortlisted schemes represented ‘credible options for expansion’. However, the Commission unanimously recommended that:

... a new northwest runway at Heathrow Airport, combined with a significant package of measures to address its environmental and community impacts, presents the strongest case and offers the greatest strategic and economic benefits – providing around 40 new destinations from the airport and more than 70,000 new jobs by 2050.<sup>156</sup>

### Heathrow Hub

As indicated above, there were two distinct proposals for expansion at Heathrow: the new north west runway, sponsored by H AHL itself and an extended northern runway (ENR), sponsored by Heathrow Hub.

[Heathrow Hub](#), led by the former Concorde pilot and past president of the Royal Aeronautical Society, Capt. Jock Lowe, proposed the extension of the existing northern runway and dividing it into two, separated by a central safety zone. The runways could be operated independently, one for departures and one for arrivals.

They contend that the scheme could be delivered for a lot less than a new third runway and constructed in stages, further it would avoid bringing significant new areas into the noise footprint as operationally it would use the same flight paths as those which are currently in operation.

The Airports Commission concluded that the ENR was “an imaginative idea, which has usefully opened up thinking about the way the airport operates, but ... is less attractive from a noise perspective” [*Final Report*, p4].

Specifically, while the ENR would be cheaper and involve the loss of far fewer homes, it would deliver a lower level of capacity; limit respite; lead to higher number of people within the highest noise contours close to the airport; present greater air quality challenges; and create a more congested airfield than the alternative option, leading to lower resilience and less space for ancillary development [*ibid.*, pp29-30]. Heathrow Hub has contended the accuracy of some of these claims, such as the 700,000 limit and that the Commission had not accepted some of its proposed mitigation measures [[Heathrow Hub](#), 1 July 2015].

<sup>154</sup> see, e.g. “[Independence of Airports Commission questioned over chair's Prudential role](#)”, *The Guardian*, 5 August 2015; and Teddington Action Group, [Letter dated 10 July 2015](#) [accessed 19 January 2017]

<sup>155</sup> Government Legal Department to Teddington Action Group, [Letter dated 27 July 2015](#) [accessed 19 January 2017]

<sup>156</sup> Airports Commission press notice, “[Airports Commission releases final report](#)”, 1 July 2015

In full, the Commission's recommendations were as follows:

Expanding Heathrow provides a unique opportunity to change the way the airport operates. The additional income generated as a result of operating a third runway should be allocated in a new way, and the airport should be obliged to develop a better and more collaborative relationship with its local communities, as some overseas airports have done.

The Commission therefore recommends that a number of measures should be taken forward, in parallel with the approval, construction and operation of any new capacity at Heathrow, to address its impacts on the local environment and communities:

1. Following construction of a third runway at the airport there should be a **ban on all scheduled night flights** in the period 11:30pm to 6:00am. This is only possible with expansion.
2. A **clear 'noise envelope'** should be agreed and Heathrow Airport must be legally bound to stay within these limits. This could include stipulating no overall increase above current levels.
3. A third runway should allow periods of **predictable respite** to be more reliably maintained.
4. Heathrow Airport Ltd should **compensate** those who would lose their homes at full market value plus an additional 25% and reasonable costs. It should make this offer available as soon as possible.
5. Heathrow Airport Ltd should be held to its commitment to **spend more than £1 billion on community compensation**. In addition, a **new aviation noise charge or levy** should be introduced to insure that airport users pay more to compensate local communities. Taken together these would fund enhanced noise insulation and other schemes. Support for schools should be included as a priority.
6. A **Community Engagement Board** should be established under an independent Chair, with real influence over spending on compensation and community support and over the airport's operations.
7. An **independent aviation noise authority** should be established with a statutory right to be consulted on flight paths and other operating procedures.
8. **Training opportunities and apprenticeships** for local people should be provided so that nearby communities benefit from jobs generated by the new infrastructure.
9. A **major shift in mode-share for those working at and arriving at the airport** should be incentivised, through measures including new rail investments and a continuing focus on employee behaviour change. A congestion or access charge for motor vehicles should also be considered.
10. Additional operations at an expanded Heathrow must be contingent on **acceptable performance on air quality**. New capacity should only be released when it is clear that air quality at sites around the airport will not delay compliance with EU limits.

11. **A fourth runway should be firmly ruled out.** The government should make a commitment in Parliament not to expand the airport further. There is no sound operational or environmental case for a four runway Heathrow.<sup>157</sup>

The Commission estimated that the cost of the scheme would be £17.6 billion, which would be paid for by HAHL.<sup>158</sup> In terms of how that might be passed on to the airport's customers (airlines and, ultimately, passengers and companies shipping freight), any increase in the airport's fees would be set by the CAA as part of the regulatory process.<sup>159</sup>

The Commission also said it would be deliverable by 2026, though "it must be accepted that a number of factors, such as potential delays to, or acceleration of, the planning and legal processes might impact the dates at which a new runway would come into operation".<sup>160</sup>

The Airports' Commission's expert advisors, Professor Peter Mackie (Emeritus Professor at the Institute of Transport Studies, University of Leeds) and Bryan Pearce (Chief Economist at the International Air Transport Association) provided an assessment of the Commission's findings. They said that the economic evaluation of Heathrow was "in some respects a unique or at least very unusual appraisal".<sup>161</sup> Mackie and Pearce also made comments about limitations to other aspects of the Commission's analysis including the model used by PwC.<sup>162</sup> Sir Howard Davies gave his view on Mackie and Pearce's note when he appeared before the London Assembly in September 2015:

We looked at the PwC work and we took account of Mackie and Pearce's comments on it. They are cautious academics. What they said was what they meant. They did not say that we should not use it. They said that we should be cautious in the way we use it and, as a result, we produced quite broad ranges of figures. However, we believe that it is a thoughtful and interesting way of assessing the economic impact of a major increase in capacity.<sup>163</sup>

Responses to the report were mixed. HAHL naturally welcomed the report.<sup>164</sup> Heathrow Hub expressed disappointment that their plan for an extended northern runway was not the favoured option but more generally welcomed the decision to expand at Heathrow.<sup>165</sup> Gatwick said that its proposal remained the "only deliverable option". It said that although the Commission had opted for Heathrow, the evidence it had

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<sup>157</sup> Airports Commission, *Final Report*, 1 July 2015, pp10-11 [emphasis added]

<sup>158</sup> *ibid.*, para 13.80

<sup>159</sup> *Oral evidence: Surface transport to airports*, HC 516, 16 November 2015, Qq241-2

<sup>160</sup> *op cit.*, *Final Report*, para 11.33; pp231-6 go into detail about delivery risks in terms of planning, construction etc.

<sup>161</sup> Airports Commission, *A Note from Expert Advisors, Prof. Peter Mackie and Mr Brian Pearce, on key issues considering the Airports Commission Economic Case*, May 2015, p1

<sup>162</sup> *ibid.*, pp3-7

<sup>163</sup> *London Assembly (Plenary) Meeting: Transcript of Agenda Item 4*, 8 September 2015, p19

<sup>164</sup> HAHL press notice, "[Heathrow will work with Government to deliver expansion for 'all of Britain'](#)", 1 July 2015

<sup>165</sup> Heathrow Hub press notice, "[Heathrow Hub responds to the Airports Commission Final Report](#)", 1 July 2015

taken showed that expansion at Gatwick was deliverable. It then called on the Government to choose Gatwick over Heathrow.<sup>166</sup>

Gatwick published an analysis of the Final Report in August 2015, setting out its areas of concern. It charged that “key elements of the Commission’s report and evidence base, although comprehensive in many respects, suffer from omissions or superficial analysis in some critical areas and are not sufficiently thorough in a number of important respects, nor are the Commission’s assessments or their presentation in the final report always balanced and fair”.<sup>167</sup> It highlighted the nature and timing of the need for additional capacity; regional connectivity; the economic benefits to the UK; noise impacts; air quality and deliverability risks as the main areas of concern.

Sir Howard Davies wrote to the London Assembly and the Secretary of State for Transport in September responding to these particular points.<sup>168</sup> In a separate statement, he said that Gatwick’s dossier “appears to repeat many points which Gatwick made to the Commission in the course of its work and which, unsurprisingly, were carefully considered. They did not alter the Commission’s view that Heathrow was the best option”.<sup>169</sup>

## 6.4 Compensation

In spring 2014 Heathrow announced a new compensation package for people who would be most disrupted by the future expansion of the airport, which involve payments of 25 per cent above market value for properties subject to compulsory purchase, stamp duty and legal fees; and a further £550 million fund for noise insulation and property compensation.<sup>170</sup> In April 2017 Heathrow’s largest single customer, International Airlines Group (IAG)<sup>171</sup> criticised the extent of this compensation package. Chief executive of IAG, Willie Walsh, said that in offering this level of compensation Heathrow “has no regard for its airline customers who are paying for this as for all elements of the development and has not consulted IAG or others on the topic”.<sup>172</sup>

In February 2015 HAML announced a new scheme to offer insulation to homes within the 55db Lden noise contour; residents would be eligible regardless of whether they experienced noise under existing flight paths

Information on Heathrow’s community compensation schemes can be found [on its website](#).

<sup>166</sup> Gatwick Airport press notice, “[Gatwick expansion remains only deliverable option](#)”, 1 July 2015; for other responses, see e.g. Mayor of London press notice, “[Mayor condemns highly predictable and catastrophic third runway plan](#)”, 1 July 2015; AEF press notice, “[Davies Commission recommendations beset with environmental hurdles, says Aviation Environment Federation](#)”, 1 July 2015; and London First press notice, “[Airports Commission recommends Heathrow](#)”, 1 July 2015

<sup>167</sup> Gatwick Airport, *A Second Runway for Gatwick: Airports Commission Final Report – Areas of Concern*, 10 August 2015, p2

<sup>168</sup> Airports Commission, *Sir Howard Davies: letters following the Airports Commission final report*, 28 September 2015

<sup>169</sup> *Sir Howard Davies statement*, 19 August 2015

<sup>170</sup> HAML press notice, “[Heathrow proposes higher compensation for people most affected by a new runway](#)”, 10 May 2014

<sup>171</sup> British Airways, Aer Lingus, Iberia and Vueling

<sup>172</sup> “[British Airways owner complains Heathrow residents’ compensation ‘far beyond’ level required](#)”, *Daily Telegraph*, 14 April 2017

or would be newly affected by noise from a new runway. Homes in the designated zone closest to the airport with higher levels of noise would have the full costs of their noise insulation covered by the airport. In addition, up to £3,000 in noise insulation would be offered to homes further away from the airport. The airport estimated the costs of the scheme somewhere in the region of £700 million.<sup>173</sup>

The NPS, published in June 2018, states that Heathrow will be required to provide “an appropriate community compensation package, relevant to planning” and outlined Heathrow’s public commitments to a community compensation package that goes beyond statutory requirements.<sup>174</sup> It also states that it supports the development of a community compensation fund at an expanded Heathrow:

The Government expects that the size of the community compensation fund will be proportionate to the environmental harm caused by expansion of the airport. The Government notes that, in its consideration of a noise levy, the Airports Commission considered that a sum of £50 million per annum could be an appropriate amount at an expanded Heathrow Airport, and that, over a 15 year period, a community compensation fund could therefore distribute £750 million to local communities.<sup>175</sup>

## 6.5 Airports National Policy Statement (NPS)

### Overview

On 2 February 2017 the Government published its draft Airports National Policy Statement (NPS).<sup>176</sup> This was accompanied by a number of technical reports and a formal consultation.<sup>177</sup> However, because of the June 2017 General Election, scrutiny of the NPS – and subsequently the Government’s timeline for parliamentary approval – was delayed and is now expected to be completed by Summer 2018.

The Government relaunched the public consultation on a revised draft NPS in October 2017 following feedback from its initial consultation process.<sup>178</sup>

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<sup>173</sup> HAHL press notice, “[Heathrow responds to calls for world - class noise insulation scheme](#)”, 2 February 2015

<sup>174</sup> Op cit., [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#), p85

<sup>175</sup> Ibid., p86

<sup>176</sup> DfT, [Draft Airports National Policy Statement](#), 2 February 2017; on 30 January 2017 the High Court refused permission to for claimants (including Greenpeace, the London boroughs of Hillingdon, Wandsworth and Richmond, the Royal Borough of Windsor and Maidenhead and a Hillingdon resident) to bring a judicial review against the draft NPS on the basis that the *Planning Act 2008* precludes a judicial review claim before the NPS has been published [see: *London Borough of Hillingdon and Others v Secretary of State for Transport and Others* [\[2017\] EWHC 121 \(Admin\)](#), 30 January 2017]

<sup>177</sup> DfT, [Consultation on Draft Airports National Policy Statement: new runway capacity and infrastructure at airports in the south-east of England](#), 2 February 2017

<sup>178</sup> DfT press notice, “[Government outlines next steps for delivering airport expansion](#)”, and DfT, [Revised draft Airports National Policy Statement](#), both 24 October 2017

The Transport Select Committee scrutinised the draft NPS and published a report on 23 March 2018.<sup>179</sup> It made 25 recommendations to Government.

The Government published its response to the Committee's report alongside the final NPS, which it laid before Parliament on 5 June.<sup>180</sup> Parliament must vote on the NPS within 21 sitting days. The vote in the Commons is expected to be 25 June.

Once it is formally adopted, the Airports NPS will provide the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport.

### Parliamentary procedure

Under the provisions of the [Planning Act 2008](#) a draft NPS (called a "statement" in the legislation), may be designated as an NPS only if the consultation and publicity requirements set out in section 7, and the Parliamentary requirements set out in section 9, have been complied with in relation to it.

Under section 9 if either House of Parliament makes a resolution with regard to a proposed NPS, or a committee of either House of Parliament makes recommendations with regard to the a proposed NPS, the Secretary of State must lay before Parliament a statement setting out his response to the resolution or to the recommendations.

House of Commons standing order 152H ([11 October 2016 addendum](#)), shows that an NPS can be considered by either a designated select committee, or a dedicated National Policy Statement Committee established for that purpose.

This NPS is the main formal opportunity for MPs to have a say on something which would directly affect the proposed expansion of Heathrow. As with previous NPSs on ports and national transport networks, the Transport Select Committee was designated to scrutinise the Statement. There is no Parliamentary Bill on Heathrow expansion.

In the Statement of Principles made between and signed by the Secretary of State for Transport and Heathrow in 2016 one of the "key principles" agreed was the designation of an NPS by the Government on airport capacity which supports the development of the Scheme "by no later than 31 July 2017".<sup>181</sup> As indicated above, the vote in the House of Commons is expected on 25 June.

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<sup>179</sup> Transport Committee press notice, "[Airports National Policy Statement: more work needed before Parliamentary approval](#)", 23 March 2018

<sup>180</sup> DfT, [Government Response to the Transport Committee Report on the revised draft Airports National Policy Statement](#), Cm 9624, 5 June 2018

<sup>181</sup> [Statement of Principles made between and signed by the Secretary of State for Transport and Heathrow Airport Limited](#), 2016, para 1.2.2

## Transport Select Committee scrutiny and report

The Transport Select Committee launched its inquiry scrutinising the revised draft NPS on 1 November 2017,<sup>182</sup> following on from the [inquiry by the predecessor Committee](#) at the end of the previous Parliament.

In conducting its inquiry, the Committee drew on:

- The revised NPS and its supporting documents, including the Appraisal of Sustainability;
- The Airports Commission Final Report and Business Case and Sustainability Assessment, as well the supporting documents;
- Evidence submitted to its predecessor's inquiry;
- Evidence submitted to the inquiry, including 87 written submissions; and
- Oral evidence from 30 witnesses.<sup>183</sup>

The Committee published its final report on 23 March 2018. Overall, the Committee concluded that while it agreed that Heathrow would be “the first place to look if you wanted to build another runway in the South-East” and that it accepted “the strategic arguments the Government has made in favour of its preferred scheme” of a North West Runway (NWR), further work was needed in certain areas. Specifically:

Safeguards and mitigations are needed to ensure that the interests of passengers are protected, and the adverse environmental, social and health impacts on affected communities are appropriately mitigated. We acknowledge Heathrow Airport Limited (HAL) and the Government's efforts to mitigate the environmental and social impacts from this scheme. We also acknowledge the ambition they share that airport charges do not increase in real terms because of airport expansion.

We have recommended several additional conditions of approval to be included in the final version of the NPS on air quality, surface access, connectivity, costs and charges, noise, community impacts, resource and waste management. Sections of the draft NPS dealing with these matters should be revised before a final NPS is tabled for approval by both Houses of Parliament.

A suite of policy measures is also required if the NWR scheme is to be delivered effectively, namely with respect to airspace change, national policy on air quality and carbon budgets. The NPS is not the appropriate instrument to resolve all these issues but they should be resolved as a matter of some urgency. We recommend that Government outline its intended policy approach to delivering airspace change for its preferred scheme as a matter of priority.<sup>184</sup>

The Committee made 25 specific recommendations to Government. It also contains detailed analysis of the key issues for debate surrounding the proposed expansion of Heathrow, set out in nine annexes:

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<sup>182</sup> Transport Committee press notice, “[Airports National Policy Statement inquiry launched](#)”, 1 November 2017

<sup>183</sup> Transport Committee, [Airports National Policy Statement](#) (Third Report of Session 2017–19), HC 548, 23 March 2018, para 9

<sup>184</sup> *Ibid.*, summary

[Annex A: The strategic case](#)

[Annex B: The economic case](#)

[Annex C: Expansion costs, financing and airport charges](#)

[Annex D: Deliverability](#)

[Annex E: Community, health and social impacts](#)

[Annex F: Air quality](#)

[Annex G: Surface access](#)

[Annex H: Noise](#)

[Annex I: Carbon](#)

## Publication of final NPS and response to Transport Committee report

On 5 June the Government published and laid before Parliament the final NPS,<sup>185</sup> along with supporting documents and its formal response to the Transport Committee's scrutiny report. In his statement to the House of Commons the Secretary of State, Chris Grayling, said:

Our draft NPS was scrutinised by the Transport Committee, and I thank the Chair of the Committee and her team for the thoroughness of their work. I was pleased that they, like me and my colleagues in the Government, accepted the case for expansion and concluded that we are right to pursue development through an additional runway at Heathrow. We welcome and have acted on 24 out of 25 of its recommendations.<sup>186</sup>

The Government's response to the Transport Committee states that for each recommendation it made one of four responses:

- 1 re-drafted sections of the Airports NPS specifically to acknowledge the Committee's concerns and take account of its recommendations;
- 2 updated the Airports NPS to clarify the current policy position, where that is deemed to be appropriate;
- 3 agreed to take action separately from and outside of the NPS process, to address the issues raised by the Committee; or
- 4 took no action as it did not agree with the Committee's recommendation.<sup>187</sup>

The only recommendation it rejected outright (response 4) was about the status of the Lakeside Energy from Waste plant. The Government made specific changes to the NPS (responses 1 and 2) in answer to eight committee recommendations. The Government stated that other recommendations, such as those on costs and charges, are more properly dealt with by the CAA as part of the regulatory regime (see section 3.1, above), and that others related to more strategic policy

The actual changes are listed in the [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England Change Log](#).

<sup>185</sup> Op cit., [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#)

<sup>186</sup> [HC Deb 5 June 2018, c169](#)

<sup>187</sup> Op cit., [Government Response to the Transport Committee Report on the revised draft Airports National Policy Statement](#), para 1.20

questions which would be dealt with separately or to matters more properly addressed during the planning (DCO) process.

The table on the following pages sets out the Committee's recommendations, what they asked for and what the Government has done or said in response. **Please note:**

- It is intended to be a **quick guide rather than to provide any detailed analysis**;
- It **does not speak to the Committee's reasons** for making their recommendations – readers should refer to the report itself for this information;
- It **does not include commentary from DfT** as to why they have not amended the NPS or published information requested by the Committee, again this information can be found in the Government's response.

It is important to note that as at time of publication the Transport Committee had made no official comment indicating whether, on the basis of its analysis of the Government's response, the Government has in its view *substantively* accepted the Committee's recommendations in areas such as financeability, air quality, noise and compensation. Others, including the Labour Party, have made some comments on these matters, discussed after the table, below.

What the Committee asked for <sup>188</sup>	How the Government responded <sup>189</sup>
<b>1</b> Government to redraft its final NPS, in line with the recommendations set out in the report.	The NPS has been amended, as indicated below.
<b>2</b> No direct recommendation to Government.	N/A
<b>3</b> More detail be provided in Chapter 3 of the NPS on the evidence on environmental, health and community impacts; and DfT comparative analysis be expanded to reflect more accurately the balance of impact across the three schemes it compares.	Supplemented the information in Chapter 3 of the NPS to include additional comparative evidence from the Appraisal of Sustainability on health and community impacts.
<b>4</b> Population impact estimates be updated to reflect the air quality impacts from the increased number of aircraft movements and surface access traffic that will result from NWR; and Air quality monetisation modelling and results be published to clarify the monetised costs of poor air quality.	Published an <a href="#">addendum</a> to the October 2017 Updated Appraisal Report showing estimates of poor air quality health impacts both within and beyond the 2 km study area.
<b>5</b> Government should adopt a more stringent interpretation of air quality compliance, including an appropriate level of headroom to manage the inherent uncertainty of predicting future air quality compliance; and Heathrow should be required to show, with a reasonable degree of confidence, that NWR can comply with these requirements.	States that the NPS is already clear that development consent would only be granted if the Secretary of State is satisfied that, with mitigation, the scheme would be compatible with air quality obligations. States that “the conservative nature of [the DfT] analysis” already provides a degree of headroom to address the uncertainty associated with forecasting air quality.

<sup>188</sup> All taken from op cit., [Airports National Policy Statement](#)

<sup>189</sup> All taken from op cit., [Government Response to the Transport Committee Report on the revised draft Airports National Policy Statement](#)

What the Committee asked for (continued)	How the Government responded (continued)
<p><b>6</b> A condition be included in the NPS that development consent will only be granted if the Secretary of State is satisfied that the proposed scheme will: avoid significant adverse impacts on health and quality of life from air quality; mitigate and minimise those adverse impacts; and where possible, contribute to improvements to health and quality of life.</p>	<p>Revised paragraph 5.42 of the NPS to make it clearer that development consent would only be granted if the Secretary of State is satisfied that, with mitigation, the scheme would be compatible with air quality obligations.</p>
<p><b>7</b> A written commitment of policy support for Southern and Western Rail Access be made by the Government in the NPS, including clarity around funding and the timeline for delivery; Government clarify which schemes are needed to support current two-runway operations at Heathrow and which are needed to support an expanded Heathrow; and DfT publish its updated surface access modelling.</p>	<p>Added new paragraph 5.7 to the NPS to reflect the status of the planned Western Rail Link to Heathrow and potential Southern Rail Access to Heathrow. States that the Government has made clear its support for Western Rail and that it is currently in advanced development and that Southern Rail Access is at an early conceptual stage in its development and a route has not yet been defined. The business case for Western Rail is boosted by NWR.</p>
<p><b>8</b> Surface access costs in the appraisal should be updated and included in the final NPS to reflect the indicative costs of those additional schemes required to deliver on the target of no more road traffic; and Government work with Heathrow to clarify the proposals for the M25 and bring greater certainty to the development plans.</p>	<p>Added additional text to the NPS to make clear that the applicant ensures that any changes proposed to the M25 are implemented consistently with the Secretary of State's statutory directions and guidance set out in <a href="#">Highways England's licence</a>. States that Heathrow will publish further details on the plans for the M25 as part of its proposed second consultation, to inform the development of its DCO application.</p>
<p><b>9</b> A condition be included in the NPS that ensures approval only be granted if the target for no more airport related traffic can be met, or that as a condition of approval, capacity be released at the airport, after construction, only when the target is met.</p>	<p>No change.</p>
<p><b>10</b> Government provide a clear definition in the NPS of what constitutes a domestic air route and outline more clearly, in paragraph 3.34, how it intends to secure 15% of new slots for domestic connections; and Government should outline how it will enforce Heathrow's domestic connectivity commitments once a NWR scheme is in operation.</p>	<p>Footnote 85 to the NPS amended to make it clear that flights to the UK Crown Dependencies are not included within the table showing potential new domestic routes. The Government's expectations on domestic connectivity will be detailed as part of the Aviation Strategy Green Paper expected in the second half of 2018 (see section 6.1, above).</p>

What the Committee asked for (continued)	How the Government responded (continued)
<p><b>11</b> DfT to produce evidence to demonstrate that NWR is both affordable and deliverable and that steps are being taken to address concerns about the high cost of the scheme and the significant risk that costs will rise.</p>	<p>The Government will continue to monitor the financeability and affordability of the scheme as the design develops and as the economic regulatory framework for expansion matures.</p> <p>See also the CAA's regulatory steps under its H7 price control review (section 3.1, above).</p>
<p><b>12</b> A condition be included in the NPS that airport charges be held flat in real terms but with scope for a marginal increase provided the balance of benefits is in favour of the consumer; and</p> <p>Government consider whether the CAA has the powers necessary to regulate effectively future airport charges at Heathrow.</p>	<p>States that at this point the CAA has not identified that new powers, different to those granted in the <i>Civil Aviation Act 2012</i>, are necessary to regulate expansion (see section 3, above).</p>
<p><b>13</b> At an appropriate early stage of the DCO planning process the CAA test the NWR scheme to ensure it is both affordable and financeable and if not be able to halt the planning process.</p>	<p>Paragraphs 4.36-4.40 of the NPS amended to provide clarity on the roles of the different regulatory processes on financeability and affordability and how these are interlinked.</p> <p>States that the CAA, will assess any business plan put forward by Heathrow through the existing regulatory process under the <i>Civil Aviation Act 2012</i>. Expansion will also be subject to specific gateway reviews by airlines and stakeholders.</p>
<p><b>14</b> Noise modelling should be updated to reflect a range of possible flight-path scenarios. The results from this modelling should also be presented using a range of metrics and across the full range of thresholds recommended in the latest guidance; and</p> <p>DfT should publish the evidence base supporting their assumptions about future fleet mix.</p>	<p>States that Heathrow has recently concluded a consultation on principles for airspace design, to be followed by two additional stages of consultation, with a consultation on flight path options expected by 2021.</p> <p>Precise flight paths for NWR would be defined through the <a href="#">CAA's Airspace Change Process</a>.</p>

What the Committee asked for (continued)	How the Government responded (continued)
<p><b>15</b> A condition be included in the NPS to ensure noise impacts be measured, during the DCO process, against an updated baseline that incorporates the Government’s latest guidance and assumptions; and The NPS should specify the noise metrics and thresholds upon which noise will be assessed. These must be consistent with the Government’s updated guidance.</p>	<p>Paragraph 5.53 of the NPS expanded to make it clear that regarding aircraft noise, Heathrow should have regard to the noise assessment principles set out in the national policy on airspace, including the noise metrics referred to in such policy.</p>
<p><b>16</b> Government should define in the NPS what constitutes “significant adverse impacts” and define an acceptable noise limit that reflects a maximum acceptable number of people newly exposed to noise due to the scheme.</p>	<p>The DCO application must refer to the 2010 <a href="#">Noise Policy Statement for England</a>, which discusses the concept of “significant adverse impacts”. States that the CAA’s airspace change process and the Government’s new airspace strategy contains further information on the relevant standards.</p>
<p><b>17</b> Government should set out in the NPS how it intends to regulate any noise envelope and what options for recourse will be available against the airport and/or airlines for breaching such an envelope.</p>	<p>States that the precise design of a noise envelope, including the details of any monitoring and enforcement regime, would be arrived at through the DCO process, in consultation with local communities and relevant stakeholders.</p>
<p><b>18</b> Government should define in the NPS a minimum acceptable level of noise respite.</p>	<p>Paragraph 5.61 of the NPS changed to make it clear that the reference to noise respite predictability being afforded ‘to the extent that this is within the applicant’s control’ refers to exceptional circumstances such as severe weather disruption.</p>
<p><b>19</b> Affected communities should be provided with a minimum average period of 7 hours of respite a night, to be determined through joint working between the airport, airlines and communities; and A mechanism be established that provides stringent oversight of any night-flight regime to ensure that airlines and the airport are monitored and an effective enforcement regime is in place to incentivise much tighter control of overruns into the night-flight respite period where they are preventable.</p>	<p>See response to recommendation 17, above.</p>

What the Committee asked for (continued)	How the Government responded (continued)
<p><b>20</b> Revise the compensation threshold for noise insulation and independently test it during the DCO process to ensure it is sufficient; Independently test during the DCO process the 125% offered to compensate residents whose homes are compulsorily purchased to ensure it is sufficient to cover a suitable repurchase; The NPS should state that there is no fixed limit on the amount of compensation offered to affected communities provided they meet the criteria set within the NPS; and The £50m a year figure for the Community Compensation Fund is increased by RPI each year so that the real terms value of this remains the same for each year of the 15 years.</p>	<p>States that inflation-proofing the Community Compensation Fund is an area that might appropriately be addressed through consultation and any subsequent planning inquiry. However, the Government notes that there are many options for how such a fund could be taken forward, and not all options would benefit from an inflation-proofing requirement.</p>
<p><b>21</b> A condition approval be included in the NPS requiring Heathrow to develop in consultation with affected communities and local authorities a strategy outlining how it intends to support those communities during and after the planning process.</p>	<p>Government believes that the <a href="#">Heathrow Community Engagement Board (HCEB)</a> will be well placed to lead engagement on behalf of local communities with Heathrow before, during and beyond the DCO process.</p>
<p><b>22</b> A condition of approval in the NPS that the Lakeside Energy from Waste (EfW) plant be given equivalent recognition as the Immigration Removal Centres and that the replacement of its facilities be accounted for in the DCO process.</p>	<p>Rejected. States that the EfW is not a strategic asset and it is not appropriate for the Government to grant the EfW a special status which sets it apart from other large, privately owned business facilities.</p>
<p><b>23</b> Government outline its intended policy approach to delivering airspace change for NWR as a matter of priority.</p>	<p>The Secretary of State for Transport commissioned NATS to produce a feasibility assessment of the potential future demands for airspace of airports in southern England. The Government expects to publish the high level findings of this later in 2018. This work will set the context for individual airspace design changes that will follow. States that the Government, CAA and NATS are working on a new airspace governance framework.</p>

<b>What the Committee asked for (continued)</b>	<b>How the Government responded (continued)</b>
<b>24</b> Government act immediately to identify, develop and implement the necessary policies needed to provide confidence that issues, such as airspace, air quality, surface access and noise, will be dealt with in a timely manner in anticipation of a DCO being made.	States that these issues will be dealt with in the new Aviation Strategy, to be published in the first half of 2019 (see section 6.1, above).
<b>25</b> Government, in the immediate period after an NPS is designated, launch a specific policy consultation looking at the best ways to maximise existing airport capacity across the whole of the UK, and including air quality and surface access.	No change.

In a debate about the Committee's report on 7 June the Chair of the Committee, Lilian Greenwood, said:

We recommended that the planning process moved to the next stage by approving the airports NPS, provided—this is important—that the concerns identified in our report were addressed by the Government in the final NPS that they laid before Parliament. Our conclusion could be described as “Yes, but” [...]

We welcome the overall tone of the Government's response to our report, which was published on Tuesday. It is clear that they have, in principle, taken on board much of our report and clearly acknowledged what we were trying to achieve. The Committee still needs to do more detailed analysis of the Government's response—we want to be sure that the substance matches the rhetoric. I do not believe that accepting our recommendations in principle is enough. Hon. Members need to decide whether we can just rely on the planning process to provide these necessary safeguards and guarantees, to protect communities and passengers. The parliamentary approval stage of the planning process is designed specifically to set the criteria for approval. It should then be up to Heathrow to meet those requirements.<sup>190</sup>

On 20 June the Labour Party announced that in its view the NPS does not meet the Party's 'four tests' (see section 6.2, above) and that as a result the party's policy will be to oppose the scheme and support a free vote in Parliament on the issue. Andy McDonald, the Shadow Secretary of State for Transport, said:

Labour has always argued that airport expansion must meet our four tests. After careful and rigorous consideration, we are clear that they have not been met.

Heathrow expansion is incompatible with our environmental and climate change obligations and cannot be achieved without unacceptable impacts on local residents. The improved connectivity to the regions of the UK cannot be guaranteed and there are unanswered questions on the costs to the public purse and the deliverability of the project.

We support vital investment in our country's transport infrastructure, but every investment must be tested on whether it provides real value for money and sustainability. A third runway at Heathrow fails this test.<sup>191</sup>

More generally, responses to the Committee's report and the final NPS have been as one would expect – with those who opposed the scheme beforehand maintaining that the case is not proven and those who support the scheme the reverse.<sup>192</sup>

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<sup>190</sup> [HC Deb 7 June 2018, 199 & 201WH](#)

<sup>191</sup> Op cit., "[Labour: Four Tests on Heathrow expansion not met](#)"

<sup>192</sup> See, e.g. HACAN press notice, "[Communities face 'a tsunami of noise' as cabinet backs third runway](#)", 5 June 2018; "[A rebuttal to the Telegraph from Parmjit Dhanda](#)", *Back Heathrow blog*, 14 June 2018; and "[Leeds Bradford Airport chief joins criticism of Heathrow 'scaremongering' as he backs expansion plan](#)", *Yorkshire Post*, 14 June 2018

## Judicial Reviews

The main points of potential legal challenge, by judicial review, in the process are once the NPS is designated and again when the DCO application is determined (see further on the DCO, below).

A JR may be brought within six weeks of the NPS being designated under [section 13](#) of the *Planning Act 2008*, as amended.

At time of publication there were reports of two separate legal challenges to the NPS: one from a coalition of London councils on noise and environmental grounds and another from Heathrow Hub on the basis of what it claims are incorrect calculations about the capacity that could be delivered by different expansion options, dating back to the work of the Airports Commission.<sup>193</sup>

## 6.6 Development Consent Order process

The proposed expansion at Heathrow will meet the thresholds set out in section 23 of the *Planning Act 2008* to be classed as a Nationally Significant Infrastructure Project (NSIP). Under section 23(5) the threshold to be classed as an NSIP is where the effect of the alteration to the airport is:

- (a) to increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services, or
- (b) to increase by at least 10,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.

Instead of seeking planning permission, developers of NSIPs must apply for a Development Consent Order (DCO) to be granted by the Secretary of State. A DCO is a form of consent which includes planning permission. The relevant Secretary of State will appoint an "Examining Authority" to examine the DCO application. The Examining Authority will be from the Planning Inspectorate, and will be either a single Inspector or a panel of three or more Inspectors. Once the examination has been concluded, the Examining Authority will make a recommendation to the Secretary of State, who will make the decision on whether to grant or to refuse consent.<sup>194</sup>

Applications for DCOs are normally decided in accordance with National Policy Statements (NPSs) – see above.

The DCO application decision making process is heavily regulated in the 2008 Act with tight timescales for each part of the procedure. **From accepting an application to making a decision, the whole process should last in the region of 15 months.** The process however, is front-loaded with a number of pre-application consultation

More detailed information on NSIPs and the DCO process can be found in HC Library briefing paper [CBP 6881](#)

<sup>193</sup> No 3<sup>rd</sup> Runway Coalition press notice, "[Labour Council Joins Legal Challenge Against Heathrow Expansion](#)", 13 June 2018 and Heathrow Hub press notice, "[Heathrow Hub readies Judicial Review of Airports National Policy Statement](#)", 19 June 2018

<sup>194</sup> Planning Inspectorate, [Nationally Significant Infrastructure: how to get involved in the planning process: Advice note 8.3](#), April 2012

requirements, which, depending on the complexity of the project, can take a number of years to carry out.

## DCO preparations by Heathrow Airport

In preparation for submitting its DCO Heathrow has been working on developing its expansion plans.

In November 2017 it published a long list of 65 sites for planned new Heathrow logistics hubs. This is an effort by Heathrow to build as many of the components for the expansion off-site at four centres across the UK.<sup>195</sup>

In January 2018 it published a consultation seeking views on potential infrastructure options including:

- Three shortlisted options for the new north-west runway with length varying from between 3,200 and 3,500 metres
- Potential locations to expand terminal infrastructure: east of Terminal 2, west of Terminal 5 or a new satellite terminal by the new runway
- Proposed alignment of the M25: repositioning it approximately 150 metres to the west, and lowering it by 7 metres in a tunnel and raising the runway height so it passes over the M25
- Options for changes to local roads and possible changes to two junctions leading to the M25<sup>196</sup>

These proposals could help cut the cost of the scheme by £2.5 billion.<sup>197</sup> The consultation closed at the end of March.

In April the airport launched a 'pitch process' to encourage potential commercial development partners to share their innovative ideas on how to deliver expansion.<sup>198</sup>

## Process for submitting and considering a DCO

A DCO application is normally determined in accordance with an NPS, subject to the exceptions listed in section 104 of the [Planning Act 2008](#). Under section 104, the Secretary of State must decide any DCO application in accordance with any relevant NPS unless he or she is satisfied that to do so would:

- Lead to the UK being in breach of its international obligations;
- Be unlawful;
- Lead to the Secretary of State being in breach of any duty imposed by or under any legislation;

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<sup>195</sup> HAHL press notice, "[Heathrow expansion takes next step towards building construction legacy across the UK](#)", 8 November 2017

<sup>196</sup> HAHL press notice, "[Heathrow Expansion Gathers Momentum as Consultation Takes Off](#)", 17 January 2018

<sup>197</sup> HAHL press notice, "[Heathrow set to unveil options for £2.5bn savings on expansion plans](#)", 18 December 2017

<sup>198</sup> HAHL press notice, "[Heathrow launches pitch process for potential commercial development partners](#)", 26 April 2018

- Result in adverse impacts of the development outweighing its benefits; or;
- Be contrary to legislation about how the decisions are to be taken.<sup>199</sup>

An *emerging* NPS can carry some weight for decision takers in the development consent process. The amount of weight given will depend on how far along the process the NPS is at and how much consultation has taken place.<sup>200</sup> Section 105 of the 2008 Act gives the Secretary of State the power to take the decision on a DCO in the absence of an NPS.

Section 107 of the 2008 Act and Article 23 of the *Infrastructure Planning (Examination Procedure) Rules 2010* ([SI 2010/103](#)) (the 'procedure rules') allows for further time to be taken in the decision making process. Under section 107 any extension to the statutory timetable would require the Secretary of State to make a statement to Parliament and would *not* be a decision which "would be taken lightly".<sup>201</sup>

The Secretary of State may reach a different decision on the DCO to that recommended by the Examining Authority. Government guidance states that the Secretary of State:

... is required under the Procedure Rules to notify all interested parties if he is inclined to disagree with the Examining Authority's recommendation because he differs from the Examining Authority on any matter of fact mentioned in, or appearing to be material to, a conclusion reached by the Examining Authority, **or because the Secretary of State proposes to take into consideration any new evidence or any new matter of fact.**

The Secretary of State will set out the reasons for disagreement with the Examining Authority and will give interested parties the opportunity to make representations in writing, **in respect of any new evidence or new matter of fact**, by an appropriate deadline.<sup>202</sup>

If the airports NPS is designated by the Government following the Parliamentary votes, the need for a third runway at Heathrow will have to be taken as decided and cannot be questioned during the DCO process.<sup>203</sup>

Once a DCO application is submitted and accepted there is a process for members of the public (including MPs) to register as an "interested party" to be able to take part in the examination process, provide written evidence and speak at meetings.<sup>204</sup>

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<sup>199</sup> op cit., [Draft Airports National Policy Statement](#), para 1.16

<sup>200</sup> Planning Inspectorate [National Infrastructure Planning website](#) [accessed 13 April 2017]

<sup>201</sup> HM Government, [Planning Act 2008: Guidance for the examination of applications for development consent](#), March 2015, para 108

<sup>202</sup> *ibid.*, paras 117-118 [emphasis added]

<sup>203</sup> "Heathrow: ready for take off", *Estates Gazette*, 5 November 2016

<sup>204</sup> for further information see: op cit., [Nationally Significant Infrastructure: how to get involved in the planning process: Advice note 8.3](#)

The Statement of Principles document sets out that Heathrow Airport Limited intends to submit an application for development consent by March 2020 with a view to securing a DCO for the new runway by September 2021.<sup>205</sup>

There might also need to be [Transport and Works Orders](#) for surface transport (road and/or rail) improvements.

The main points of potential legal challenge, by judicial review, in the process are likely once the NPS is designated and again when the DCO application is determined (see further on the NPS, above). An October 2016 blog piece by infrastructure planning lawyer Angus Walker at Bircham Dyson Bell speculates about some of the possible points of legal challenge in the DCO process and the impact of these challenges on the proposed timetable.<sup>206</sup> Reports in June 2018 indicated that air quality and noise are likely to present particular problems for the DCO consent.<sup>207</sup>

### **‘Requirements’ and enforcement**

It is likely that the DCO will contain a number of pre-commencement conditions (called “requirements” under the 2008 Act). These are conditions and restrictions on the development and matters for which detailed approval needs to be obtained from the local planning authority before the development can be lawfully begun. Securing approval for these requirements will also add time to the process.

The Schedule of Requirements are in effect the planning conditions which govern how the project is to be delivered. In terms of approach and content they are broadly similar to conditions found on a planning consent, and seek to govern phasing, design and operation of the project.

Section 161 of the 2008 Act provides for the offence of “Breach of terms of order granting development consent”. Under section 161(4), a person guilty of an offence under this section is liable:

- (a) on summary conviction, to a fine not exceeding £50,000, or
- (b) on conviction on indictment, to a fine [on summary conviction, or on conviction on indictment, to a fine].

Under section 171 of the 2008 Act, a local authority may also apply for an injunction “if it considers it necessary or expedient for any actual or apprehended prohibited activity to be restrained by injunction.”

Some of these provisions and local authority powers are summarised further in an article from legal firm, Ashfords.<sup>208</sup>

<sup>205</sup> op cit., [Statement of Principles made between and signed by the Secretary of State for Transport and Heathrow Airport Limited](#), para 1.2.3

<sup>206</sup> “[725: Heathrow timetable and observations](#)”, *BDB blog*, 27 October 2016

<sup>207</sup> “[Heathrow runway not yet cleared for take-off](#)”, *The Times*, 14 June 2018

<sup>208</sup> Ashfords, [Development Consent Orders: enforcement](#), 1 September 2014; see also: Planning Inspectorate, [Advice note fifteen: Drafting Development Consent Orders](#), October 2014

It might be the case that Requirements are added to the DCO for Heathrow expansion about specific environmental measures, such as air quality and noise. There have been reports that this is the Government's intention.<sup>209</sup> Until the DCO is published however, we do not know if this will be the case.

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<sup>209</sup> ["UK government talks tough on Heathrow third runway"](#), *Financial Times*, 17 June 2018

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