

HEATHROW EXPANSION - RESPONSE TO HEATHROW AIRSPACE AND FUTURE OPERATIONS CONSULTATION

Cabinet Member	Councillor Ray Puddifoot MBE
Cabinet Portfolio	Leader of the Council
Officer Contact(s)	Raj Alagh, Chief Executive's Office
Papers with report	Appendix 1 Response from the London Borough of Hillingdon to the Heathrow Airspace and Future Operations Consultation

HEADLINES

Summary	This report sets out details of the Council's response to Heathrow Airport Ltd's January 2019 Heathrow Airspace and Future Operations Consultation and seeks Cabinet's endorsement to it.
Putting our Residents First	This report meets the Council's objectives of our people and our natural built environment. It also helps to demonstrate that the Council is doing all that it can to protect its residents from proposed Heathrow expansion.
Financial Cost	None directly arising from this report.
Relevant Policy Overview Committee	Residents, Education and Environmental Services.
Relevant Ward(s)	All Wards

RECOMMENDATIONS

That Cabinet:

- 1) Notes the contents of the report.
- 2) Endorses the Council's response dated 4 March 2019 to Heathrow Airport Limited's January 2019 Heathrow Airspace and Future Operations Consultation.
- 3) Reaffirms the Council's commitment, working either alone, or in conjunction with partner authorities and others, to take all necessary action, including pursuing appeals to the appellate courts in relation to the current legal challenge, and commencing further separate legal challenges, to oppose the Government's proposals to expand Heathrow Airport and it confirms that the existing delegated authority to the Deputy Chief Executive and Corporate Director of Residents Services and the Borough Solicitor to formally implement any actions directed by the Leader of the Council is to remain in place.

Reasons for recommendation

Heathrow expansion will have a devastating impact on the Borough and its local communities. It is important that the Council responds robustly to Heathrow Airport Limited's proposals which are not only premature but will also have devastating impacts if implemented.

Alternative options considered / risk management

The Council could decide not to respond to this consultation. However, this is not considered to be a feasible option due to the highly unsatisfactory nature of the consultation and the very significant adverse impacts its proposals have on the Borough and its residents.

Policy Overview Committee comments

None at this stage.

SUPPORTING INFORMATION

Background

The Airports National Policy Statement [ANPS]

1. On 25 October 2016, the previous Government endorsed the Airport Commission's conclusion, as set out in its Final Report dated July 2015, that the case for airport expansion in the South East of England had been properly made out and it therefore announced that its preferred scheme to meet the need for new airport capacity was a Northwest Runway (NWR) at Heathrow Airport. This was in accordance with the Airport Commission's recommendation.
2. The previous Government decided that a National Policy Statement was the most appropriate mechanism for putting into place the necessary planning framework for a new runway at Heathrow on the basis that it falls within the category of a nationally significant infrastructure project within the meaning of the Planning Act 2008. An alternative approach would have been to use the Hybrid Bill process which was favoured for the development of Phase one of the HS2 scheme.
3. The current Government undertook two public consultations, the first in February 2017 and the second in October 2017, in accordance with the requirements of the Planning Act 2008. Consultees were asked for their views on the draft ANPS which the Government had produced. There were a total number of 72,239 responses to the February 2017 consultation and 11,028 responses to the October 2017 consultation.
4. The Council made robust responses to both sets of consultations, which were formally approved by Cabinet.
5. On 5 June 2018, the Secretary of State for Transport [SST] laid the final proposed ANPS before Parliament together with a set of supporting documentation, in readiness for an impending vote in the House of Commons.

6. The vote in relation to the proposed ANPS took place on 25 June 2018. MPs voted in favour of the ANPS by 415 votes to 119, a majority of 296 with support from across the House.

7. On 26 June 2018, the SST designated the ANPS under section 5 of the Planning Act 2008. It sets the policy framework for Heathrow expansion. On the same day, the Department for Transport published:

- A post adoption statement titled, "*The Airports National Policy Statement: Post Adoption Statement*" setting out how environmental considerations and consultation responses were integrated in to the final ANPS; and
- A relationship framework document, setting out how the Department for Transport and Heathrow Airport Limited [HAL] would work together to achieve additional airport capacity through airport expansion, necessary airspace modernisation and related matters.

The Legal Challenges

8. There is a strict six week time limit, which ran from the date of the designation of the ANPS [26 June 2018], to issue judicial review proceedings in the High Court. The Council, acting with a consortium of other local authorities, Greenpeace and the Mayor of London commenced such proceedings within this time limit. There are four other judicial review claims and they will all be heard in the High Court between 11 - 22 March 2019. The Council's legal grounds of challenge can be briefly summarised as follows:

- Air Quality
- Surface Access
- Habitats
- Strategic Environmental Assessment
- Climate Change
- Consultation Failings [Minds Made Up]

The Development Consent Order [DCO] Process

9. The ANPS is not an end process in itself as it does not confer a consent to either construct or operate any development. Instead, it sets a series of policy tests that must be met in order for development consent to be obtained. If they are not met, then depending on the nature of the test contained in the ANPS, development consent may be legitimately refused.

10. It is for a private developer to make an application for development consent to the Planning Inspectorate, which acts on behalf of the Secretary of State, under the Planning Act 2008. Development consent is another name for planning permission and it is required for Nationally Significant Infrastructure Projects such as Heathrow expansion. The Council is of course the relevant planning authority.

11. Although HAL is the Government's preferred developer, any prospective developer can make an application. Indeed, it is understood that Arora Group intend to submit their own

development consent application for all parts of the NWR Scheme, other than the actual runway itself.

12. The DCO process places great importance on engagement with stakeholders and residents. A developer also has to comply with certain statutory pre-application steps including consultation.

13. HAL is in the process of preparing its DCO application in spite of the impending March hearing in the High Court and it appears that it will continue to press on with it, regardless of the outcome. For example, HAL ran an initial, non-statutory consultation exercise from 17 January to 28 March 2018 which sought views on its emerging proposals in terms of what the expanded airport could look like, how it might operate, and how HAL might best mitigate against the potential impacts, including proposals for compensation and noise insulation. The Council did not respond to this consultation.

Heathrow Airspace and Future Operations Consultation

Introduction

14. HAL published this consultation on 8 January 2019, which ran for eight weeks until 4 March 2019. HAL is seeking feedback on changes proposed to the Heathrow airspace and on future runway operations. This consultation is also non-statutory in nature.

15. The consultation consists of 25 separate reports, the majority of which are technical in nature. The main consultation document states that this is an opportunity for consultees to share their views on two key topics related to expansion, namely, Future Operations [how the runways will be used] and Airspace Change for Expansion [the routes aircraft will fly]. In addition, there is a separate document titled 'Making Best Use of Existing Runways' which proposes changes to arrival flight-paths in relation to the current two way runway airport.

16. The consultation seeks views on three key areas:

- Future operations for an expanded Heathrow: how HAL will operate the proposed three runways in future - this includes managing noise; respite through runway and airspace alternation; directional preference and night flights.
- Airspace change for an expanded Heathrow: the local factors that HAL should be considering in different geographic areas when designing future flight paths.
- Airspace change to make better use of the existing two runways: the local factors that HAL should be considering in different geographic areas when designing new flight paths for some arrivals on the existing two runways.

17. The standard of the consultation material, for the avoidance of doubt, is extremely poor. For example, the suite of documents contains an online tool with a postcode checker for consultees to check the information for their own specific area. There is no means via this tool of overlaying the different maps to fully understand the potential impacts of areas impacted by departures and arrivals.

18. There are 16 specific questions under the topics of managing noise and future runway operations, two requests for views on Airspace Change and the potential to add any other comments on the consultation as a whole.

19. The Council has answered each of these questions and it has also added extra comments. The Council submitted its response by the 4 March deadline which was approved by the Leader of the Council under his delegated powers. A copy of the full response is attached as Appendix 1 to the report. Cabinet is being asked to endorse this approval.

Overview

20. The report titled 'Heathrow's Airspace Design for Expansion' includes a series of mapped diagrams called design envelopes which indicate the spatial reach of future flight paths in various different scenarios for arrival and departures from all three runways. The envelopes are up to a height of 7,000 feet, divided into 7 separate categories. The height of 7,000 feet as a cut off is chosen as this is the extent of the control Heathrow, as the airport operator, has in terms of the design of the routes. After this, the design reverts to NATS [National Air Traffic Services]. There is no further information as to how the local design routes will be merged into the wider flight path design at higher altitude.

21. Each height category has an indication of the expected number of flights per hour plus the number of those flights anticipated to be above a defined noise threshold. This threshold is the number of flights above 65dB for daytime operations, and the number of flights above 60dB for night-time operations. These thresholds are set by the Civil Aviation Authority in their Air Navigation Guidance; their use is described as providing a means of portraying those locations where residents will experience being overflown. The maps are segregated into departures and arrivals although there is accompanying text which explains that communities may be impacted by both departures and arrivals.

Short Summary of Hillingdon Response

22. This consultation serves to wholly support the Council's action in judicially reviewing the Government's ANPS in that the environmental implications of expansion are substantial, totally unacceptable and indeed unlawful. The ANPS has not taken proper account of the environmental implications, and in particular noise arising from the proposed Heathrow NWR expansion. This view is supported by the level of detail now presented within this consultation.

Implications for Hillingdon

23. For the first time, the enormity of the noise impacts which will emanate from the operation of a third runway at Heathrow has been displayed in a manner which allows residents to anticipate whether they will be flown over and to what extent. What is clear from the consultation is that all parts of the Borough will be impacted by flight paths, from Harlington in the South where there are indications of 47 flights an hour [approximately one every one and a half minutes] to Harefield and Northwood in the North at 17 flights an hour [approximately one every three and a half minutes].

24. This is in direct contrast to the information presented by the Government in the draft ANPS February and October 2017 consultations when noise information was displayed in the form of noise contour maps. These indicated that there would be no noise impacts past the southerly parts of the Borough. The Council consistently complained at every opportunity that the Government's approach to the information displayed as contour maps was not representative of the actual impacts. It is only now, that the ANPS having been designated, will communities begin to understand the true picture.

25. It is also clear that the proposed airspace changes [independent parallel approaches] at the current two runway airport will mean, if accepted, that from 6am there will be flight paths over areas of the Borough that do not currently have overflights and where this occurs, there will be potentially a concentration of approximately 25 flights in the hour between 6am-7am. This is wholly unacceptable to the Council and its residents.

Consultation on noise management and airspace should be halted

26. This whole process is being rushed through by HAL without appropriate safeguards being put into place for residents and communities. To make matters worse, this is being done at a time when various judicial review challenges have yet to be heard and determined by the High Court, with the potential for the ANPS to be quashed if it is found to be unlawful.

27. The Airports Commission, in its Final Report in July 2015, called for the establishment of an independent noise commission with the key aim of building trust between communities and the aviation industry and influencing decisions relating to aircraft noise, its management and mitigation. This has been supported in Government policies such as the ANPS itself, the Government's Airspace Change Policy and also within the CAA Air Navigation Guidance, which have all referred to the establishment of the Independent Commission on Civil Aviation Noise [ICCAN].

28. The remit of the ICCAN was described in the Government's Airspace Change Policy consultation as giving:

"communities assurance that noise impacts are being considered and that noise management procedures are being taken forward in the best possible way by industry."

29. It went on to state that:

"The Government recognises that independence and credibility will be key to the foundation of ICCAN. We wish to see its influence taking effect to support Heathrow Northwest Runway airspace decisions and therefore would like to see it established as soon as possible."

30. Yet this level of independent engagement has been absolutely denied to all the communities around Heathrow. HAL have pressed on with the process in spite of ICCAN not yet being in place and therefore not having both the time and opportunity to influence the process. This is wholly unacceptable and this process should be halted now - no ifs or buts. It immediately sets the so-called Balanced Approach in firm favour of the aviation industry with no independent voice for the huge swathes of communities who will be adversely impacted.

31. To allow what will be one of the biggest change in airspace in aviation history, together with changes in runway operations which will impact on hundreds of thousands of people, to go ahead without this independent view and community safeguard, is at best misconceived, perverse and irrational. The Council will be calling on Government and the CAA to halt this consultation process until such time as ICCAN is in place and is therefore in a position to influence the process in the manner which has been anticipated and expected since the recommendation of the Airports Commission in July 2015.

32. If the Government and the CAA ignore the Council's request, then the very independence and credibility associated with the establishment of ICCAN will be lost on the basis that ICCAN will come into the process when key decisions will have already been made and opportunities to address any shortcomings will have been lost forever.

Financial Implications

There are no direct financial implications arising from the recommendations contained in the report.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

Proposed Heathrow expansion, together with Phase One of the HS2 scheme, are the most significant and devastating set of Government development proposals facing the Council and its residents. Cabinet approval of the recommendations is an important part of the process in terms of the Council's continued opposition to Heathrow expansion.

CORPORATE CONSIDERATIONS

Corporate Finance

There are no direct financial implications arising from the report. However, the Council has established a contingency fund for opposing expansion at Heathrow. This is reviewed annually as part of the MTFF process and stands at £409k.

Legal

The Borough Solicitor is the author of the report and all necessary legal implications are therefore contained within the body of the report.

BACKGROUND PAPERS

Nil