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GOVERNMENT'S HEATHROW EXPANSION PLANS IN TATTERS AS JUDGE SLAMS RUNWAY POLICY

Councils, green groups and residents celebrate victory and call on Government to scrap third runway

The Government's Heathrow policy is in tatters this morning after the High Court ruled that ministers' decision to give a green light to the proposed third runway does not hold any weight. The judge dismissed the Government's claims to the contrary as 'untenable in law and common sense'.

If the Government wants to pursue its plans for Heathrow expansion it must now go back to square one and reconsider the entire case for the runway.

The implications of today's ruling are profound, not just for Heathrow but for airport expansion plans across the UK. Lord Justice Carnwath ruled that the 2003 Air Transport White Paper – the foundation of expansion plans across the country - is obsolete because it is inconsistent with the Climate Change Act 2008.

The judge expressed real concern over the "hardship caused to the local community by uncertainty" over the third runway. The coalition which brought the successful legal challenge is now calling on the Government to end the uncertainty and scrap the runway plans once and for all.

The judge ruled that:

- If the Government decides to push ahead with the runway project it must now review the climate change implications of Heathrow expansion, the economic case for a third runway, and the issue of how additional passengers would get to a bigger airport.

- The Government's entire aviation policy must now be reviewed to take into account the implications of the 2008 Climate Change Act. The judge found that "the claimants' submissions add up, in my view, to a powerful demonstration of the potential significance of developments in climate change policy since the 2003 Air Transport White Paper. They are clearly matters which will need to be taken into account under the new Airports National Policy Statement."(1)
- On the economic case for Heathrow expansion he would be 'surprised' if the recent tripling of the estimated cost to society of emitting carbon did not have 'a significant effect' on the economic case for the runway. The judge also said that "it makes no sense to treat the economic case as settled in 2003."
- On the issue of surface access he said the claimants' case – that there is no credible plan in place to transport millions of extra passengers to an expanded Heathrow - was 'justified'. Significantly, he noted that the Government was "unable to provide a convincing answer" in court when it was pressed about overcrowding on the Piccadilly underground line that would result from construction of a third runway.

The judge is now inviting the Government to sign a legally binding undertaking that it will not base future aviation policy solely on its 2003 white paper. A further court hearing is expected to take place next month to examine the Government's response to the judge's request. At the same hearing the coalition will seek costs and fully expects to recover those costs from the Government.

Cllr Ray Puddifoot speaking on behalf of the local councils said:

"This is a spectacular victory for our residents. The Government had been trying to close down debate on the true economic impact of a third runway by presenting it as a done deal.

"Today's ruling has blown that position apart. The Government just did not want to have to take on board the real consequences of new climate change laws. The judge made it clear the figures just did not add up.

"If after this ministers are still intent on pressing ahead with expansion they will have to go back to the beginning and justify the whole economic case in public. Knowing what we now know about rising carbon costs this is an argument they cannot win.

"The third runway is effectively dead because it cannot survive the proper economic and environmental scrutiny which the Government tried to avoid. As local councils we call on the Prime Minister to do the decent thing and bury this discredited policy."

Geraldine Nicholson, Chair of NoTRAG, said:

“As local residents, we now demand that the Government drops all plans for a 3rd runway and sixth terminal at Heathrow so that we can cast off the 8 years of blight and start to rejuvenate our communities.”

Greenpeace executive director John Sauven said:

“This ruling leaves the Government’s Heathrow decision in tatters. Ministers will now have to go back to the drawing board and conduct a broad consultation on key issues where their case is extremely weak. The third runway was already on life support, but with this ruling it’s hard to even find a pulse. This shows that David Cameron and Nick Clegg backed the right horse when they pledged to scrap the third runway, and it makes any Conservative U-turn after the election all but politically impossible.”

David Nussbaum, CEO of WWF-UK, said:

"We are delighted with today’s judgement. It deals a body blow to the third runway, but more than that it makes it clear that the Government's whole policy of airport expansion must be reviewed in order to bring it into line with the Climate Change Act."

"Today's landmark ruling has implications that could resonate far wider than the aviation sector. For a judge to tell the Government that it cannot build huge pieces of carbon-intensive infrastructure without considering the long-term consequences is a resounding win in the fight to tackle climate change. It is also a further indication of the need for the UK to make a swift transition to a low carbon economy. WWF would now urge the Government to focus on green investment, encouraging alternative ways of connecting with people wherever possible, such as high speed rail and videoconferencing, rather than relying on carbon-heavy methods such as flying.”

Shaun Spiers, Chief Executive of the Campaign to Protect Rural England, said:

"The Government said there could be no argument about the need for a third runway. This was undemocratic and it was wrong.

"We were forced to bring this legal case to give people the right to challenge the expansion of Heathrow. The High Court has now made clear that a fundamental review of aviation policy is needed. This not just a victory for people living around Heathrow or around other airports, it is a victory for everyone who wants a tranquil countryside and a democratic planning system."

HACAN Chair John Stewart said:

“This is an utterly damning verdict for the Government. It not only raises very serious concerns about a third runway at Heathrow, it also calls into question the Government’s entire aviation policy. This really could be the final nail in the coffin for a third runway.”

Martin Harper, the RSPB’s Head of Sustainable Development, said:

“Right from the start, we have argued that building a third runway at a time when we are battling to reduce our carbon emissions made no sense.

“Climate change threatens many species with extinction and we are already seeing its impacts with catastrophic declines in seabird numbers in parts of the North Sea.

“Concerns about climate change are at the heart of today’s judgement. The clear message from the High Court is that Government must now take those concerns into account.”

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NOTES TO EDITORS

- 1.) National Policy Statements (NPSs) are a key part of the new planning system that was established by the Planning Act 2008. They are strategic planning documents will set out the national need for major infrastructure developments such as power stations, ports, airports, roads and transmission lines. When an application is submitted for such a development above a certain threshold, there will be a presumption in favour of granting permission. The Government has said it intends to publish a draft Airports NPS next year.
- 2.) Six local authorities in West London (Hammersmith and Fulham, Hounslow, Hillingdon, Richmond upon Thames, Wandsworth and Windsor & Maidenhead) are claimants to the challenge, alongside the local residents group (NoTRAG) and the national campaigning group against airport expansion HACAN. WWF-UK, Campaign to Protect Rural England and Greenpeace are also claimants. Transport for London is an independent party supporting the claim. The Royal Society for the Protection of Birds is an expert witness. The challenge is also supported by Kensington and Chelsea and the Mayor of London. The local authorities are all members of the 2M Group which comprises 24 local councils opposed to Heathrow expansion with a combined population of 5 million.
- 3.) The legal challenge was launched in April 2009 and the case was heard in the High Court at a rolled-up hearing on the 23rd – 25th February 2010.
- 4.) In February 2007, Greenpeace won a Judicial Review against the Government’s energy review which backed a new generation of nuclear

power stations. As a result the government was forced to re-run the public consultation.

- 5.) If a third runway at Heathrow airport were to be built, the airport would become the largest single emitter of carbon dioxide in the UK. Unrestrained airport expansion would make it impossible for the UK to play its part in tackling climate change. The Government has committed the UK to cuts of at least 80% in CO₂ emissions by 2050. Research from the respected Tyndall Centre shows that if the industry is allowed to expand as predicted, aviation emissions *alone* would make it impossible to meet this target.
- 6.) Aviation has a number of high-altitude impacts that increase its total warming effect on the climate. The Committee on Climate Change has recently suggested that aviation has a Global Warming Potential of around two, meaning that its total warming effect is twice that of its CO₂ emissions alone.
- 7.) In December 2009, the Committee on Climate Change published a report with recommendations of how the Government target to reduce aviation emissions to 2005 levels by 2050 could be met. The Committee recommended that aviation growth needs to be limited to around half of that planned in the White Paper, but warned that the target may need to be further tightened in the future.
- 8.) All the claimants are represented by Harrison Grant (solicitors) instructing Nigel Fleming QC of 39 Essex Street, Nathalie Lieven QC and David Forsdick of Landmark Chambers.