

NPS Consultation Response: **Thematic Paper**

Consultation process

May 2017

Key Points:

- The Secretary of State has a statutory obligation to consult on the NPS and this consultation has many flaws.
- The Secretary of State has a specific requirement to consult the GLA on the publicity for consultations on schemes in London, which it failed to fulfil.
- The consultation has misrepresented the NPS and instead focused on extolling the virtues of Heathrow expansion – many of which were based on no more than aspirations. There was no attempt to explain the negative aspects of expansion, nor set out the framework proposed by the NPS.
- The process has also been undermined by the delay to the publication of the Air Quality Plan and the shelving of plans to publish the passenger demand forecasts in the consultation period, despite the previous commitment to do so.

1. Approach to consultation

- 1.1 Public consultation is a vital part of the planning process, and must serve as an open, transparent mechanism for meaningful engagement. Anything less than this undermines the process and its ability to involve local communities, including those most affected by the development and give them a full and fair understanding of the impacts. It is deeply concerning that, in several regards, this consultation has fallen short of this.

2. Publicising the consultation

- 2.1 Section 8 of the Planning Act 2008 places a statutory responsibility on the Secretary of State to consult the GLA on the appropriate steps to publicise a consultation, when the proposed development lies within its boundaries¹.
- 2.2 The Government sought to discharge this duty by arranging a meeting with the GLA, around a fortnight before the consultation was due to start, when any opportunity to influence would have been inevitably limited. In advance of any meeting, the GLA requested a written briefing, so that it might give proper consideration, across the

¹ Planning Act 2008, Section 8 (1) (b)

organisation, to the plans for consultation. This was raised a number of times, including in a letter from the Deputy Mayor, Transport to the Parliamentary Under-Secretary of State at the DfT, on January 26. This reasonable request was repeatedly rebuffed by Government. This raises concerns as to whether the Secretary of State discharged his statutory duty when he failed to allow the GLA due opportunity to review and influence the plans for the consultation.

- 2.3 The lack of pre-consultation on the consultation notwithstanding, the Deputy Mayor, set out to the DfT what she expected from the consultation to ensure it was open, transparent and comprehensive in the way it presented the information. It was disappointing that the draft NPS that was published largely did not adhere to this.

3. Consultation material

- 3.1 The consultation should have been about the draft NPS on aviation capacity, so that members of the public could form a view on “the additional need for aviation capacity in the South East and the requirements that an applicant needs to meet to be granted consent to develop a Northwest Runway”².
- 3.2 Instead, the consultation publicity material bore little resemblance to the NPS. Rather, the consultation material and events focused on making the case for Heathrow expansion.
- 3.3 There was a near total focus on the alleged benefits of expansion – many of which are no more than uncommitted aspirations. Yet there was barely any discussion of the severe negative impacts of expansion. Attending the consultation events, you could be forgiven for coming away thinking that there were no real downsides from a third runway.
- 3.4 For example, it was stated that Heathrow expansion could be delivered without breaching air quality limits; yet the NPS supporting documents explicitly state that if a third runway opens in 2025 – as is planned – that there would be a high risk of non compliance³.
- 3.5 The material suggested that the Western Rail Access and Southern Rail Access were going ahead when actually the NPS states that these schemes are not required and as such neither scheme has any commitment or funding.
- 3.6 The interactive noise contour display was particularly misleading, using wholly indicative flightpaths modelled by HAL, based on new technology yet to be introduced, and with flightpaths some of which were found to be unfeasible by NATS and scenarios some of which are counter to Government policy. Presenting the noise contours in this way, even with caveats, would have deceived many members of the

² Runway Consultation Response Form - <https://www.gov.uk/government/consultations/heathrow-expansion-draft-airports-national-policy-statement>

³ Appraisal of Sustainability, Air Quality, section 8.9.34

public who thought they were getting a robust picture of the future noise impacts.

4. Provision of key documents

- 4.1 The NPS consultation material made an explicit commitment that two key additional documents would be published over the course of the consultation process. However, one was delayed and the other has not been published. To be without the key documents promised for most, if not all, of the consultation period, further undermines the whole process.

Passenger demand forecasts

- 4.2 The passenger demand forecasts are important in underpinning a number of assumptions about expansion, not least those determining the economic case.
- 4.3 On the May 8, eighteen days before the close of the consultation, the DfT announced online that it would no longer be publishing this passenger demand forecast data in the consultation period.
- 4.4 Without the data there is a lack of transparency around the assumptions used in all the NPS assessments, which could have a material impact on the case for Heathrow expansion, particularly relative to the alternatives.
- 4.5 The Government's failure to make this data available means that that the consultation responses will inevitably be based on an incomplete understanding of the case for the expansion of Heathrow airport.

Air Quality Plan

- 4.6 The NPS identifies successful implementation of the Government's Air Quality Plan as one of its key mitigations for reducing the negative impact of poor air quality.
- 4.7 Given that the area around Heathrow already breach legal limits for NO₂ emissions, the Air Quality Plan has a critical bearing on the deliverability of a third runway.
- 4.8 The draft Air Quality Plan, now in its third iteration following previous legal challenges, should have been published in April 2017 but the Government sought to delay it. After being ordered to publish by the High Court, the draft policy was finally published on May 5.
- 4.9 That has left just three weeks for the Air Quality Plan to be scrutinised and its implications for a third runway. This has been compounded by the fact that the data underpinning the Air Quality Plan was not published.
- 4.10 The delayed publication of the Air Quality Plan only serves to undermine the NPS consultation and the basis on which it seeks to take forward expansion. It adds to the uncertainty that a third runway can be delivered without dire consequences for air quality and public health.