

Heathrow Expansion DCO Consultation Response

Air quality

September 2019

1. Overview

- 1.1 This paper sets out the Mayor's response on air quality to the statutory consultation by Heathrow Airport Limited (HAL) on its expansion proposals.
- 1.2 The Mayor of London has a legal duty to produce plans and policies for the achievement in Greater London of the air quality standards and objectives prescribed in regulations and a duty to reduce health inequalities in London. The current Mayor has stated in his London Environment Strategy that his ambition is for London to have the best air quality of any major city; not merely meeting minimum legal limits but exceeding them where possible and achieving World Health Organization targets for PM2.5 by no later than 2030.
- 1.3 In the section of the PEIR that deals with the legislative and policy framework (appendix 2.1) HAL have identified the Air Quality chapter of the London Environment Strategy as an important and relevant matter, although they fail to include any account of the content of the Strategy. However, in the main air quality analysis the London Environment Strategy is not considered.
- 1.4 Widespread, large increases in air pollution that may result from the development of a third runway at Heathrow will inevitably impinge on, and may ultimately frustrate, the Mayor's efforts to discharge his duties to meet legal standards and objectives or meet his ambitions.
- 1.5 Serious flaws in the air quality and surface access assessments make it likely that the impacts described in the PEIR are underestimated. Nevertheless, the PEIR demonstrates that, even on this optimistic basis, the impacts are likely to be large and widespread.
- 1.6 The impacts of the scheme will erode benefits from the Mayors policies, actions and investment, that Londoners would otherwise enjoy.
- 1.7 The assessment takes a very narrow, and we believe, incorrect view of the ANPS requirements relating to air quality.
- 1.8 Aside from the proposed charging scheme there are no substantial mitigations proposed or attempts to deliver benefits to air quality (as opposed to minimising harm).

2. Preliminary assessment of impacts on air quality

- 2.1 It is vital that proposals with the ability to substantially worsen the health of many

thousands of Londoners through increased air pollution are correctly assessed to allow decision makers to properly understand the impact of the scheme. It is also vital that HAL fully understands the likely impacts of their scheme and can show that they have taken all necessary steps to protect the health of their neighbours and staff. This is a requirement of Regulation 12 of the Infrastructure Planning (Environmental Impact Assessments) Regulations 2017.

- 2.2 Not only is the preliminary assessment entirely inadequate for this purpose it provides little confidence that the more detailed assessment expected at the DCO stage would be any better. In part the air quality assessment is based on HAL's traffic modelling. As discussed in TfL's detailed response on Surface Access (submitted under separate cover) the traffic modelling undertaken by HAL is inadequate and not in line with published guidance. This likely to have led to a substantial under-representation of the likely true impacts of the scheme on air pollution.
- 2.3 Both the geographical scope and the level of detail of the preliminary assessment are insufficient to fully describe the impact of the scheme. In their scoping opinion the Planning Inspectorate recommended that Heathrow undertake a more detailed modelling exercise, and they referred to the GLA's published London Atmospheric Emissions Inventory as a basis rather than the limited PCM model. Not only have Heathrow ignored this recommendation they have indicated that they do not intend to follow it for the more detailed modelling expected at the DCO stage (PEIR appendix 5.1, PINS reference no. 21). No reason is given for this, simply a statement that Defra background maps are used, and that the Lakeside waste incinerator is included in the modelling.
- 2.4 Notwithstanding these criticisms the preliminary assessment shows not only that there would be widespread worsening of air quality but also that there will be at least one exceedance of legal limits caused by traffic associated with Heathrow expansion along the A30 Great South-West Road as it passes Hatton Cross (link 36309). During the Judicial Review the government lawyers stated that the requirement for Heathrow to comply with the Air Quality Directive was the "reddest of red lines." On this basis alone the proposals would not be granted consent. HAL will need to re-consult once it has set out a proposal which does meet the minimum legal requirements.

3. The Mayor's strategies and the London context

- 3.1 The Mayor's approach to delivering, and maintaining, improved air quality is integrated into many of his key strategies for London; most significantly the London Environment Strategy, the draft London Plan and Mayor's Transport Strategy.
- 3.2 The London Environment Strategy sets out the priority to continuously reduce all sources of air pollution, not only securing compliance with legal limits by 2025 and World Health Organization targets by 2030 but building in the structures and policies we need now to secure continuing improvements for the future allowing current and future generations of Londoners to enjoy the health benefits of clean air.

- 3.3 The Mayor's Transport Strategy has an overall aim to reduce the share of journeys in London taken by private car to 20% by 2041, to do this it builds on the concept of healthy streets. A healthy street is one where people and sustainable modes of transport are prioritised over car dominance, and good air quality is enjoyed in a welcoming and accessible public realm.
- 3.4 The London Plan seeks to ensure that London's expected growth is Good Growth. Good Growth means growth that is socially and economically inclusive and environmentally sustainable and underpins the whole of the London Plan. The third of the six overarching Good Growth policies sets our expectation that London should be Healthy City, which includes being one where Air Quality is improved, public exposure to pollution is reduced and inequalities in exposure to pollution are addressed.
- 3.5 To meet this aim large scale developments should move away from a regressive attitude of merely scraping under the bar of legal limits for air quality but taking a genuinely forward looking, air quality positive, approach that exploits the potential of growth to deliver the buildings and infrastructure we need to make London's air quality better. Air pollution contributes to thousands of deaths each year in London: at present two million Londoners, including four hundred thousand children, live in areas that exceed legal limits for air pollution and nowhere in London currently meets the WHO guidelines for PM2.5.
- 3.6 By contrast Heathrow have focussed solely on managing the harm caused by the development to keep it under the 'magic number' of the legal limits (and even there they have, by their own analysis, failed). There is increasing evidence that meeting legal limits, while important, is not sufficient to protect people's health and that there may be no threshold below which harm does not occur. The regressive, tick box, narrow compliance approach being taken by Heathrow is not only at total variance to the approach being taken by the Mayor but is likely to result in real, lifelong, harm to Londoners.
- 3.7 Not only that but, by relying on the use of the infrastructure relied on to deliver the Mayor's strategies, the proposed third runway runs a real risk of jeopardising the achievement and maintenance of air quality limits in London. For instance: increased overcrowding on the Elizabeth and Piccadilly lines could mean that residents of many of the new homes London so desperately needs would be unable to access the public transport intended for them and may be forced into car dependence, with direct consequences for air quality and therefore the health of Londoners.

4. Erosion of benefits

- 4.1 The wide-ranging package of measures introduced by the Mayor to improve air quality includes:
- Introducing the world's first Ultra Low Emission Zone (ULEZ) in April 2019 to help remove older polluting vehicles from central London. The ULEZ boundaries will be extended in 2021 to the North and South Circulars for all vehicles, and in 2020

tougher ULEZ standards will be introduced London-wide for lorries, coaches and buses;

- Transforming London's bus fleet by phasing out of pure diesel buses and a commitment to purchase only hybrid or zero-emission double decker buses from 2018, with the entire fleet becoming 'zero emission' by 2037;
- Introducing the first ten Low Emission Bus Zones in areas where Londoners are exposed to some of the highest levels of nitrogen dioxide (NO₂) pollution, with the final two expected to be delivered before the end of this consultation;
- Making sure we no longer license new diesel taxis from 2018 and supporting the trade to upgrade to much cleaner 'zero emission capable' vehicles;
- Introducing Five Low Emission Neighbourhoods, spanning eight boroughs and involving a range of local businesses. In addition to continuing the Mayor's Air Quality Fund, these targeted actions will tackle some of the worst pollution hotspots across London, with TfL contributing £14 million;
- A £48 million fund to support scrappage schemes that will help smaller business owners, charities and low income Londoners scrap older, more polluting vehicles and switch to cleaner alternatives.

4.2 Not only that but many individual Londoners and businesses have invested in improved vehicles or changed the way they travel in response to the LEZ and ULEZ, many more will do so as the ULEZ expands and the LEZ tightens.

4.3 It is this investment of public and private money, time and effort that Heathrow rely on to claim that they can deliver huge numbers of new vehicles on London's roads without breaching legal limits for air quality.

4.4 Londoners are entitled to expect to enjoy the health and quality of life benefits that their efforts and investment have provided. It is entirely unjust that much of these benefits should be reversed in the interests of expanding the airport.

4.5 In some areas the preliminary assessment indicates there will be increases in air pollution of more than 15% of the current legal limits, a level of impact that would definitely cause a breach of legal limits were it not for the significant action taken by the Mayor and ordinary Londoners. This increase in pollution will not only have direct effects on Londoners' health but indirect effects through the loss of benefits they would otherwise enjoy. The contempt shown to ordinary Londoners by Heathrow's failure to accept responsibility for this damage is completely unacceptable.

5. Compliance with the air quality law

5.1 In the preliminary assessment Heathrow have taken a limited view of the obligation created by the Air Quality Directive, similar to that previously used by the Airport Commission, focussing primarily on the creation of new exceedances and the prolonging

of existing exceedances. This is not consistent with the interpretation of the directive given by Justice Garnham in the Client Earth case that compliance must be achieved in the shortest possible time, by a route that is likely to succeed and crucially by means that reduce exposure. The third limb of this requirement has been entirely ignored by Heathrow who propose no methods or plans to reduce exposure, and only limited interventions to reduce the scale of additional pollution.

- 5.2 Also ignored by Heathrow are other requirements of the Directive, such as the requirement, where legal limits are met, to maintain the best possible air quality consistent with sustainable development, or the need to progressively reduce PM2.5 concentrations. Similarly, the impact on other legal requirements, such as the National Emissions Ceiling Directive, have not been assessed, except in the most cursory fashion.
- 5.3 The Government's recent Clean Air Strategy indicated that they are considering how the UK can match the Mayor's ambition to achieve World Health Organization targets for PM2.5. While these targets have not yet been introduced into UK law there is a distinct possibility that they will be. The draft London Plan places the WHO target for PM2.5 on the same footing as legal limits and Heathrow should do the same, both out of fairness with other developments in London and in anticipation of a likely change in the law.

6. "Environmentally Managed Growth"

- 6.1 Heathrow propose to limit their impact on air quality through a proposed "Environmentally Managed Growth" (EMG) proposal. This would replace the more traditional caps on passenger or flight numbers which have provided both protection and certainty that what is consented through planning will be what happens in reality.
- 6.2 The EMG policy described borrows the concept of an "envelope" of allowable harm from noise control and applies it inappropriately to air quality. The "envelope" is proposed to be two criteria:
- That the airport does not create a new exceedance, and
 - That the airport does not delay London as a whole achieving compliance.
- 6.3 The proposal is that the airport would be able to release ever more capacity so long as these, and the similar noise and carbon criteria, are predicted to be met.
- 6.4 As with the preliminary assessment these criteria misapply the requirements of the Air Quality Directive.
- 6.5 Just as significantly the first criterion contains no progressive element; any improvement in air quality obtained by the action of the Mayor and Londoners is treated as fair game to be absorbed by further increases in flight and passenger numbers.
- 6.6 The second criterion means that, so long as at least one road elsewhere in London has worse air quality than a road directly impacted by Heathrow, air quality can be made worse than it is today, even a road where legal limits are already exceeded. In addition,

the proposed envelope does not distinguish between different routes to compliance (e.g., if two measures secure compliance at the same time; the measure which most rapidly reduces exposure should be preferred).

- 6.7 Not only will this structure work to create and prolong poor air quality in London and other areas affected by Heathrow it also means that the true impact of the development will inevitably be allowed to exceed that described in the environmental assessment of the development, depriving decision makers of their ability to take a realistic view of the impact of the third runway on real peoples' health.
- 6.8 The EMG policy also states that release of additional capacity can only take place within the proposed envelopes and that this would be controlled by an "independent scrutiny panel". However, the proposal does not give the scrutiny panel the power to prevent the release of new capacity, or indeed any obviously meaningful powers at all. Worse than that, any mitigation measures suggested by the scrutiny panel would be paid for out of the Heathrow Community Fund thus depriving local residents of some of the few benefits they are likely to see from the airport (such as the provision of mental health services to help them cope with the noise and other disturbance).
- 6.9 Overall the approach to "environmentally managed growth" therefore builds in long term environmental harm, undermines the basis for any planning decision to be made, fails to provide meaningful oversight of the airport and potentially reduces the benefits of the community fund.

7. Mitigation

- 7.1 It is clear that, as the assessments understate the impacts, the level of mitigation consulted on is inadequate. In any event, not only is there no attempt to consider how the expanded airport might be designed to contribute to improving air quality, no specific measures to prevent or mitigate increased air pollution from the airport are proposed or described save for the emissions-based charge and subsequent access charge.
- 7.2 The charging schemes explicitly take the London ULEZ as a model but have failed to consider the conditions necessary to make charging schemes a success. For instance, there is no additional action to provide adequate alternatives to driving to the airport or consideration of the different response of regular versus occasional travellers. Occasional travellers, such as the majority of Heathrow's customers may be more likely to pay-and-stay.
- 7.3 Road charging schemes like the ULEZ rely on significant financial and strategic investment to make them a success. To be most effective, they also need to be used as part of a wider strategy in order to deliver the desired outcomes. As set out in more detail below, Heathrow have not demonstrated that the conditions for success are in place for either of their proposed charging schemes. Nor have they identified how any income from the charging scheme would be invested in public or sustainable transport or if they would even be able to do so.

- 7.4 Without a proper appraisal of the workability of these schemes and the likely behaviour of visitors to the airport in response to them, the desired reduction in traffic cannot simply be assumed.
- 7.5 Given the scope of mitigation which is likely required is significant, the GLA would expect HAL to reconsult on its proposals once it has remedied the defects in its assessments and the proposed mitigation.

8. Road user charging as mitigation

- 8.1 Although not included in, or controlled by, the EMG the road user charging schemes proposed by Heathrow are a key component of their approach to mitigation, particularly for surface access and air quality.
- 8.2 The Mayor and Transport for London have substantial experience in delivering successful charging schemes, dating from the first congestion charge introduced in 2003 and including the T-charge and ULEZ, which pioneered emissions-based charging in the UK.
- 8.3 Charging schemes are not simple to design and operate effectively. The GLA Act ensures that London charging schemes can only be implemented for the purposes of implementing the Mayor's wider transport strategy and must be in conformity with the strategy as a whole.
- 8.4 As a consequence, any London charging scheme is subject to public consultation in the Mayor's Transport Strategy, and democratic oversight in the form of Assembly approval for the MTS. None of this is the case for Heathrow's proposals.
- 8.5 While charging exerts a "push" to persuade people to change their vehicle or alter their travel behaviour a successful scheme also requires a "pull" in the form of effective and accessible alternatives. For the ULEZ this has meant substantial investment in public transport infrastructure, such as the Elizabeth line and the Bakerloo and Northern line extensions as well as other rail enhancements and substantial improvements to the bus fleet.
- 8.6 Any proceeds arising from charging schemes in London are required to be re-invested in sustainable transport, a process that is subject to considerable oversight and accountability through the London Assembly. Re-investment of the proceeds also ensures that charging directly goes to improve public transport in London, a positive feedback intended to deliver further benefits.
- 8.7 While Heathrow has suggested they would invest any proceeds from their charging scheme in public transport it is not clear how this would happen, what oversight there would be or even if it would be permissible under current CAA rules.
- 8.8 Not only have Heathrow failed to show that they understand the conditions for success of a road charging scheme it is not clear that they have fully developed their understanding of the impacts of their proposals.