

WHAT DOES TODAY'S RULING MEAN FOR THE CAMPAIGN TO STOP HEATHROW EXPANSION?



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Heathrow Campaign – Next steps

On 16th December 2020, the Supreme Court overturned the Court of Appeal ruling which means that the Airports National Policy Statement (ANPS) is legal once again.

The Supreme Court's verdict does not mean Heathrow expansion now has the green light. It's simply one hurdle cleared. Expansion faces the following further hurdles.

Legal avenues

Plan B Earth have announced they will launch proceedings before the European Court of Human Rights (ECtHR) on the basis that Chris Grayling's reliance on the dangerous and discredited 2°C temperature limit is inconsistent with the right to life, protected by Article 2 of the Convention. ECtHR has nothing to do with EU or Brexit. It was set up by Churchill and others post WWII.

Government – Airports National Policy Statement

The onus is now on the Government to rule out Heathrow expansion, as continuing to allow it to happen would be committing a massive retrograde step for our environment ahead of the UK's hosting of the COP26 summit in Glasgow next year.

Government can commit to reviewing the ANPS under [Section 6 of the Planning Act 2008](#). This can refer to all or part of the statement.

The Act enables the Secretary of State to consider any significant change in any circumstances on the basis of which any policy in the statement was decided.

It can be argued that the Net Zero commitments and the impact of the COVID-19 pandemic provide legitimate reasons for review.

Further, the economic, noise, air pollution and health assessments undertaken as part of the ANPS are now very out of date and require reassessing. For example, the ANPS assessed economic benefits of the scheme as being based on the third runway being constructed and opening in 2028. It suggested any delay would eliminate the economic benefits of the scheme.

Once a review is complete the Secretary of State can withdraw the statement, amend the statement or leave it unchanged.

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Climate change agenda

The Climate Change Committee advised that there should be no net expansion of airports. This means that if a 3rd runway goes ahead that there will need to be operational restrictions at regional airports and potentially closure of some regional airports.

Government will need to identify which airports they will be prepared to allow to close, or to have operations significantly reduced.

Planning process

Heathrow can now proceed to submit an application for a Development Consent Order (DCO) to the Planning Inspectorate.

As the Supreme Court made clear, that planning process will need to consider current climate obligations, including the UK's net zero by 2050 target. Heathrow expansion implies 40 million tonnes of CO₂ from UK aviation by 2050, presenting an obvious problem.

Prior to the Court of Appeal ruling in February 2020, Heathrow had been planning a second statutory consultation, effectively admitting that the initial consultation in 2019 had some serious gaps and failings. They will need to set a timetable for this consultation to take place.

Once this consultation is completed Heathrow can, in theory, submit their application whenever they like. There is no time constraint set out in the Planning Act 2008.

However, Heathrow had already admitted, prior to the start of the pandemic, that there was likely to be a two-year delay to their plans. This is only likely to slip further given the airport is focused on recovery.

Flight numbers are broadly expected to be the same in 2021 as in 2020 and industry experts predict that 2019 levels of demand may not return until 2025, if at all.

Heathrow's chief executive John Holland Kaye told the Transport Select Committee that a 3rd runway may not be required for another 15 years.

There is huge uncertainty that the additional capacity of a third runway will ever be needed.

Communities though will, in the meantime, be in limbo with no knowledge as to their future. Heathrow should set out its intentions, in order to give at least some indication to those who are impacted by its operations, as to what the immediate future holds.