The Airports NPS has been declared unlawful. So, what happens next?

Following the Court of Appeal’s ruling on 27th February, there are a number of possible routes the next stage of the campaign could take:

**Legal Challenges**

The Government has already indicated that it will not challenge the Court of Appeal’s ruling.

Heathrow, Arora Group (promoters of Heathrow West) and Heathrow Hub all intend on appealing to the Supreme Court.

They have until 19th March to file submissions. The Supreme Court must then decide whether to hear the appeals by 16th April.

**Heathrow Consultation and Planning Application**

The ruling means that the planned upcoming consultation from April – June will be cancelled.

The fact that the Airports National Policy Statement (ANPS) was declared unlawful also means that Heathrow’s plans to submit their Development Consent Order to the Planning Inspectorate later this year will not happen.

It appears that Heathrow will now place their expansion project on hold until (as it hopes will happen) the Government has a lawful ANPS in place. However, complete clarity on what “on hold” means could take some time.

**What next for the ANPS?**

The Court of Appeal has ruled that the Government must undertake a review of the ANPS under Section 6 of the Planning Act.

This means that the Government must:

- amend the statement;
- withdraw the statement’s designation as a national policy statement;

It is worth highlighting that a National Policy Statement has never been amended or withdrawn before so we are in unchartered territory.
Heathrow Expansion – Next Steps

It is being rumoured that the Government will withdraw the ANPS entirely (our ideal scenario), but is already facing significant pressure from Heathrow and business groups not to do this.

If the Secretary of State decides to amend the ANPS he must carry out an appraisal of the sustainability of the policy set out in the proposed amendment.

An amendment would require the ANPS to be compatible with the Paris Agreement. It also effectively means that any amendment should also be compatible with our Net Zero targets.

It is possible that there would need to be a public consultation on any proposed amendment to the ANPS that parliamentary scrutiny could be undertaken by the Transport Select Committee. It is worth noting that there is no obligation for either of these to happen. The Planning Act leaves the decision to the discretion of the Secretary of State.

However, if the Secretary of State amends the ANPS he must:

- arrange for the amendment, or the statement as amended, to be published, and
- lay the amendment, or the statement as amended, before Parliament.

This may result in another Parliamentary vote on the amended ANPS but not necessarily. The Government could require Parliament to approve a motion re-designating (approving) the amended ANPS.

If the Government decides to amend the ANPS to make it lawful, it can do so regardless of any potential Supreme Court appeal.

The total time for this process could take between one and two years.

No Third Runway?

If the Government decide to withdraw policy support for Heathrow expansion altogether then Heathrow would issue a legal challenge for being led up the garden path and to recoup their planning and enabling costs (estimated to be around £500m).

If a third runway is dropped completely then we would then move immediately to campaigning against any expansion of Heathrow.

We remain opposed to any increase the Air Traffic Movement cap of the number of flights at Heathrow as well as the introduction of IPA which will significantly deteriorate the quality of lives of many communities.