

The Airports National Policy Statement (ANPS) has been declared unlawful. So, what happens next?

Following the Court of Appeal's ruling on 27th February 2020, 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.

The next stage in the process is for parties – including Heathrow Airport Limited, Arora Group (Heathrow West) and Heathrow Hub Ltd, to apply for permission to the Supreme Court, appealing the Court of Appeal's judgment on 27th February.

There is no guarantee that appeals to this judgment will be granted by the Supreme Court. It is thought the deadline for the Supreme Court to state whether an appeal has been granted (approximately 16 April 2020), will not be adhered to. The main reason for this is due to the ongoing COVID-19 pandemic.

If permission is granted, it is thought it will be many months before any appeal is heard by the Supreme Court.

Heathrow Consultation and Planning Application

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

The fact that the 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 has placed their expansion project on hold until (as it hopes will happen) the Government has a lawful ANPS in place.

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; or
- 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It is worth highlighting that a National Policy Statement has never been amended or withdrawn before, so we are in uncharted territory.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 take into account the Paris Climate Agreement. It also effectively means that any amendment should also be compatible with our Net Zero Carbon targets.

It is possible that there would need to be a public consultation on any proposed amendment to the ANPS and 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. 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 continue to campaign against any other expansion of Heathrow.

We remain opposed to any increase in the Air Traffic Movement cap of the number of flights at Heathrow as well as the introduction of Independent Parallel Approaches which will significantly deteriorate the quality of life of many local communities.

No 3rd Runway Coalition

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