



Discussion Paper 07:

Delivery of new runway capacity

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1. Introduction

- 1.1 In its *Interim Report*, published in December 2013, the Airports Commission set out its assessment of the need for future airport capacity to safeguard the UK's status as an international aviation hub. The Commission also short-listed three proposals at Heathrow and Gatwick that it believes are credible options to deliver the necessary one net additional runway by 2030 and set out how it would undertake further work on options in the inner Thames Estuary on the Hoo peninsula.
- 1.2 Under its Terms of Reference, the Commission has also been asked to make recommendations for how the need for any new capacity can be met as expeditiously as practicable within the required timescale. This paper sets out some of the areas that the Commission will review in considering how any of the options for new capacity could be so delivered.
- 1.3 The Commission has yet to reach a conclusion on what its final recommendations for addressing capacity concerns will be. This paper does not pre-empt that process, but considers a range of possible delivery issues that might apply.
- 1.4 **This paper is not intended to set out firm conclusions in any area**, but to prompt discussion and to invite comments and feedback that will aid the Commission in taking this work forward.
- 1.5 For the purposes of this paper and to ensure fullness of discussion, the possibility of an inner Estuary scheme being chosen by the Commission is considered. However, it is important to

emphasise that no decision has yet been taken on whether an inner Estuary option should be considered a credible option to be taken forward to Phase 2 of the Commission's work.

- 1.6 The paper will look at the following areas which this Commission has identified as being of particular interest to the expeditious delivery of new runway capacity:

Chapter 2: Legal and Planning

Issues – Any new runway or airport will need to secure the agreement of the relevant planning authority before construction can begin.

Chapter 3: Local Communities

– How airports engage with their local communities is likely to be a key part of delivering new capacity. Local compensation and mitigation schemes may play a role in addressing the needs of those affected by airport expansion, including impacts on the environment.

Chapter 4: Role of the State

– While airports in the UK are most commonly privately owned and operated, the state still plays a role in the licensing and economic regulation of airports. There are also a number of interactions between airports and areas of public life. The Government of the day could play a variety of roles in securing agreement and funding or co-ordinating the different elements that must come together to deliver new runway capacity.

Chapter 5: Next Steps

– sets out how you can respond to this Discussion Paper and how the Commission will use responses to inform its ongoing work.

2. Legal and Planning Issues

2.1 Securing authorisation for new capacity is likely to be a significant part of the delivery process. Any new airport development would need planning consent to construct as well as a licence and other agreements to operate (operational licensing and regulation is considered in chapter 4).

2.2 Planning consent is required to compulsorily purchase or gain access to the necessary land as well as to construct buildings, roads, runways or rail links, to connect to public utilities such as electricity and water supplies and to manage waste.

2.3 In recent history there are few examples of nationally significant developments being successfully brought forward at UK airports.¹ Indeed the protracted development of Terminal 5 at Heathrow is often cited as having been a catalyst for the recent reforms to the planning regime for national infrastructure set out below.² Whilst political uncertainty at a national level about airport expansion is likely to have been a factor, this relative lack of activity means that there is no direct comparator in thinking about the route through the planning system for new airport capacity following the Commission's final report.

2.4 This chapter sets out possible ways in which planning consent for new airport

capacity may be secured and seeks views on their implications.

Planning Act 2008

2.5 The Planning Act 2008, as amended by the Localism Act 2011, sets out the process by which Nationally Significant Infrastructure Projects (NSIPs) can achieve permission through a Development Consent Order (DCO) issued by the relevant Secretary of State.

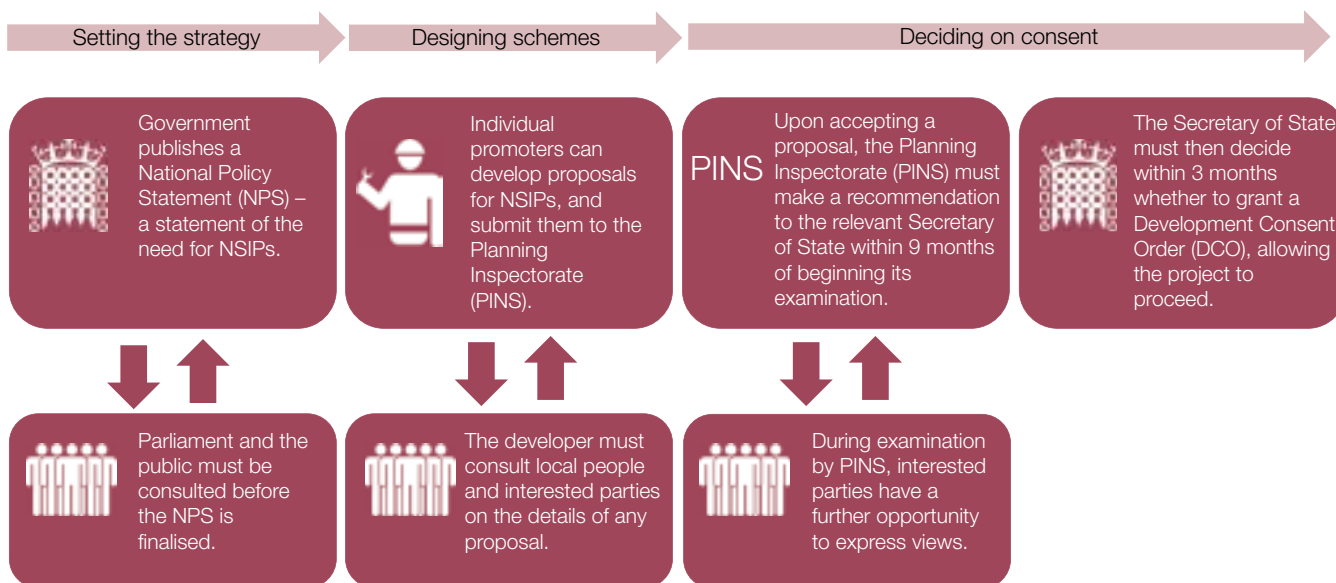
2.6 The Act describes the circumstances in which a new piece of infrastructure should be considered 'nationally significant'. In the case of airports this includes any developments that would increase the capacity of an airport by more than 10 million passengers per year or 10,000 cargo movements. All of the schemes shortlisted by the Airports Commission as well as proposals for a new airport in the inner Thames Estuary would comfortably meet this threshold.

2.7 The NSIP planning regime was introduced with the intention of creating a more streamlined process, with statutory timescales at certain points to limit the potential for delays.

1 Manchester Airport published proposals for a second runway in 1991. Plans were approved in 1997 and the runway became operational in 2001.

2 Proposals for the Terminal 5 development were submitted in 1993 and then subjected to a lengthy public inquiry. The Government of the day finally announced a decision to allow the scheme to go forward in 2001.

Nationally Strategic Infrastructure Project (NSIP) Planning Process



National Policy Statements

2.8 It is the role of Government to set the policy environment within which planning decisions are made. Under the Planning Act 2008, relevant Secretaries of State have a power to publish National Policy Statements (NPS) in a number of specified areas, explaining and justifying the Government’s assessment of the strategic need for particular types of infrastructure and its wider relevant policies. This must include explanation of how the policy takes account of Government policy on mitigating and adapting to climate change.

2.9 Each NPS should include an Appraisal of Sustainability (AoS) which details how alternative policies have been considered and assessed. The AoS should be developed in consultation with the bodies specifically identified as requiring to be consulted in the Environmental Assessment of Plans and Programmes Regulations 2004 along with other persons affected or likely to be affected by the decision.

2.10 During this Parliament, the Government has published draft or final NPS on energy, waste water, ports, hazardous waste and national networks (road and rail). The Government has indicated that it will not produce a NPS on airports ahead of the publication of the Airports Commission’s final report.

2.11 As part of an NPS, a Secretary of State may choose to identify specific sites as being suitable or not for development and may choose to set out conditions that must be met in order for development to be deemed appropriate. Examples exist of both site-specific (nuclear power) and non-site specific (national networks) NPSs.

2.12 An NPS must be published for public consultation in draft form and the Planning Act 2008 provides for Parliamentary scrutiny of the proposal, including by the relevant Select Committee. The final document must be designated by Parliament. For this to happen it must lie before Parliament for 21 days without resolution that it should

not be taken forward. At this point its content becomes ‘national policy’ and it is no longer the business of the Planning Inspectorate or any other part of the planning regime to debate these points. For example, if a designated NPS states that there is a national need for new power stations of a particular type, then the planning system will take this as its starting point and not rehearse the national need in considering the merits of any particular scheme (as was recently the case for the development of a nuclear power station at Hinkley Point C).

Developing Schemes

- 2.13 Individual developers are responsible for designing and proposing schemes and have a statutory duty to consult local communities and interested parties on the details of their designs. In particular, during the pre-application phase developers must:
- consult relevant local authorities, including the Greater London Authority if the land is within Greater London, and prescribed individuals with interests in the land affected;
 - prepare a statement of how they will consult the local community such as local residents and businesses – a ‘statement of community consultation (SoCC)’ – and consult relevant local authorities on these proposals; and
 - publicise their application and consultations in local (and one national) newspapers.
- 2.14 In addition, developers must produce a range of documentary evidence describing their proposal and its impacts, including an Environmental Statement.

The Planning Inspectorate

- 2.15 When a scheme is ready, the developer will submit it to the Planning Inspectorate (PINS). PINS is an executive agency of government employing around 790 staff including examining inspectors for NSIP applications. It is an impartial body responsible for making and advising upon a wide range of decisions on local and national planning matters across England and Wales. Its role in regard to NSIP planning is to examine each application and provide a report to the relevant Secretary of State who will make the final decision on the development (land use) consent.
- 2.16 Once it has accepted a scheme and the examination period has begun, PINS is required by law to consider the scheme and make a recommendation to the relevant Secretary of State within nine months on whether he or she should grant a DCO, allowing it to proceed. As part of its work, PINS will receive predominantly written evidence from interested parties but will also hold some public hearings.
- 2.17 Upon receiving a recommendation from PINS, the Secretary of State should make a decision within three months. He or she is not obliged to accept the recommendation of PINS but his or her decision may be challenged in court if it is deemed unreasonable or subject to an error of law or process. There is a formal 6-week window for an application for judicial review of a decision to be lodged.³
- 2.18 A DCO issued by a Secretary of State can cover a number of consents including planning permission, listed building consent, modification of regulations or planning conditions,

³ To date four DCO decisions have been subject to judicial review with one decision being successfully challenged.

temporary or permanent diversion of highways or creating the power to compulsorily acquire land required for the development. This combination of consents is intended to ease bureaucracy and allow the developer to proceed more quickly. In addition, the Consents Service Unit within PINS can provide a bespoke service to developers helping them to coordinate non-planning consents that do not form part of the DCO as required.

2.19 The Commission notes ongoing work by Government to further refine the planning regime for NSIPs, informed by its December 2013 consultation.

2.20 It should be noted that it is possible for scheme promoters to develop proposals and for these to be considered by PINS in the absence of a draft or finalised NPS. Indeed this has been the case for a number of road and rail schemes during this Parliament which have been progressed in advance of a designated National Networks NPS. In these circumstances, PINS will consider such statements of Government policy as exist and are relevant. In making his or her decision, the Secretary of State must have regard to any matter that the Secretary of State thinks is important and relevant to the decision. This could include a draft NPS if the relevant NPS has not been formally designated.

2.21 The Commission is interested in views on how an airport development could progress through the NSIP process. In particular:

- In accordance with its Terms of Reference, the Commission is developing materials based on detailed analysis that will support the Government in preparing a NPS if it chooses to do so. As set out above the Secretary of State has some

discretion over the level of specificity about suitable locations for development that a NPS may include. The Commission is interested in views on how these and any other issues may impact upon timescales for the efficient delivery of an Airports NPS and in turn upon expeditious delivery of new capacity; and

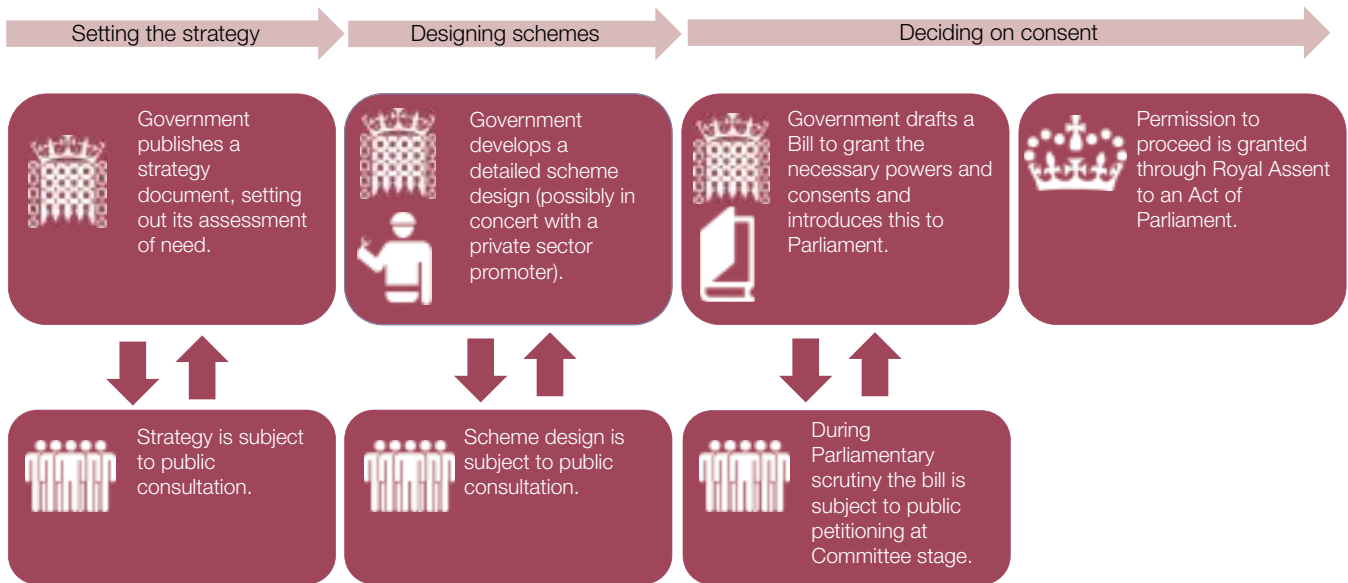
- New airport capacity would likely require not just runway and terminal buildings, but enhanced surface access and, particularly in the case of a new airport in the Inner Thames Estuary, possibly also new housing and other local development. Current Government policy is clear that planning decisions on housing should be for local authorities in accordance with their local plan and not part of the national infrastructure regime. The Commission is interested in views on the breadth of planning and other consents that would be needed for any new runway capacity and related development and how effectively these can be addressed by the DCO process.

Hybrid Bills

2.22 As an alternative, major infrastructure projects can also be granted planning consent directly by an Act of Parliament. Where such Acts would pertain to both public and private interests, they may be introduced and debated as a hybrid bill.

2.23 A hybrid bill could be used as the legislative vehicle for new runway capacity, as has been the case for the Channel Tunnel Rail Link, Crossrail and HS2. Whilst timetabling would be a matter for Parliament, the Commission's assumption is that a hybrid bill for an airport development would go through similar stages to the HS2 Bill and fulfil many of the functions of the DCO process.

Hybrid Bill Planning Process



2.24 In theory a hybrid bill would give more control to Government, and indeed Parliament, over the time-table for progressing through the planning process and the ultimate design of the scheme. A bill could be used to take wider and more significant powers to drive through delivery of the scheme than would be possible with a DCO, for example establishing a statutory authority or creating more flexibility to make changes to the design in later years.

2.25 As set out in chapter 4 there are a number of issues related to the development of new runway capacity, most particularly if in the form of a new airport, that would need to be brought together effectively, including possible surface access, housing and other developments. A hybrid bill could be a way for Government to establish wider powers, a delivery authority, or secure funding if it deemed them necessary for an infrastructure project of significant scale and complexity – in effect acting as a tool to help deliver as well as

enable development. As such, it may be appropriate to consider the pros and cons of a hybrid bill in light of the role of the State in delivery as discussed in chapter 4.

2.26 The Commission recognises that a hybrid bill pertaining to development at a privately owned airport could bring together state and private interests in an unusual way (both Crossrail and HS2 are during construction at least publically owned assets) and is interested in views on the feasibility of such a relationship.

2.27 It is also worth noting that, Crossrail and HS2 notwithstanding, hybrid bills in support of major transport infrastructure are not common occurrences and the professional skills of parliamentary agents, lawyers and others required to support a bill, including public engagement at committee stage, are specialist in nature.

2.28 The Commission welcomes views on how new airport capacity could be

brought forward through a hybrid bill. In particular:

- The implications of a hybrid bill on the timescale for securing planning consent;
- The implications for Government and for any private sector scheme developer or airport operator of a hybrid bill; and
- The longer term implications of a hybrid bill throughout the delivery process.

Other Routes

2.29 Whilst this paper details two alternative routes for securing planning consent for new airport capacity, the Commission is interested to hear views and suggestions for any alternative strategies. This may include different combinations of the elements discussed.

2.30 Whatever legislative vehicle is used, it is possible that that the process for agreeing planning permission for new runway capacity could take some time. The Commission is keen to understand how the potential planning journey of its final recommendation could be as stream-lined and efficient as possible, whilst ensuring that local communities and statutory consultees are properly engaged. For example, it will want to explore the potential interactions of the different stages of any parliamentary or planning process and whether there may be opportunities for Government, airports and others to do preparation work, without prejudice, ahead of the Commission's Final Report and to work most effectively afterwards. The Commission will want to ensure that any process can build upon the work that it and scheme promoters have done during this parliament.

Q: What do you think of the options for securing planning consent on new airport capacity? What are their particular strengths or weaknesses?

Q: Are there any others options that the Commission should consider?

3. Local Communities

- 3.1 The Commission recognises that the concerns of local communities are important to any consideration of the delivery of new runway capacity. Airport expansion can support economic growth and wider prosperity for the nation, but can also have less welcome impacts for local communities and the environment. The Commission is interested in views on how developers might best engage communities, reduce and mitigate harmful impacts or provide compensation that ensures benefits are more fairly shared in delivering new capacity.
- 3.2 This chapter includes a number of examples of how infrastructure developments from different sectors and in different countries can interact with their local communities. It should not be inferred from this paper that the Commission intends at this stage to propose or reject any such measures as a means for enabling more expeditious delivery of new airport capacity. However, it is hoped that these examples will illuminate a discussion on the principles and practical issues that the Commission may wish consider.

Engagement

- 3.3 As set out in the previous chapter, the planning system requires developers to consult local communities on schemes at several points in the process and to demonstrate how these views have been considered. For example, prior to submitting an application, a developer must make information available in local media and public places near the location of the proposed project. The

Commission has noted the local consultations run by both Heathrow and Gatwick airports during 2014 to inform the development of the proposals they have put forward.

- 3.4 The engagement of interested parties continues during the examination of proposals by PINS, with people given the opportunity to make detailed comments or speak at public hearings.
- 3.5 In the UK there is a statutory requirement for airports to provide adequate facility for consultation with airport users, local authorities, including in relation to the area of Greater London a reference to the Mayor of London acting on behalf of the Greater London Authority, and other local groups on any matter relating to the management and administration of the aerodrome which affects their interests. Government recommends the establishment of an Airport Consultative Committee as best practice in this area and has recently published updated guidance on their operation.⁴
- 3.6 International examples of governance structures put in place to enable ongoing engagement between airports and local communities may also be of interest. For example, the 'Alderstafel' at Schiphol Airport in Amsterdam was established in 2006 to advise government and act as a community engagement and decision-making forum on how to take forward airport expansion. The Alderstafel includes

4 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304735/guidelines-airport-consultative-committees.pdf

representatives from regional and national government, airlines, local residents and air traffic control as well as the airport itself and is chaired by former environment minister Hans Alders. The group seeks to be consciously non-political, with no minutes taken or statements made about its discussion other than by the impartial Chair. The Alderstafel has helped to secure agreement on local and national limits on aircraft movements and future expansion which balance economic benefits with limitations on noise disturbance and ensured better access to information on airport operation and noise impact forecasts for local residents.

3.7 At Frankfurt Airport the delivery of an additional fourth runway was managed by the Forum Flughafen und Region (FFR) which is chaired by a triumvirate of an elected community representative, aviation industry representative and a neutral third party, with parity of information for all sides. The work of the forum has resulted in agreement on a number of noise restrictions and a new information centre (the 'Umwelthaus') comprising physical noise exhibitions and demonstrations as well as online forecasts and information. However, expansion at Frankfurt has still proved controversial. Disagreement over the airport's third runway in the 1970s and 80s led to violent clashes between police and protesters and protests against its fourth still take place regularly even though the runway has now been operating for more than two years.

3.8 In France, the ACNUSA (*Autorité de contrôle des nuisances aéroportuaires*) is an independent administrative authority with responsibility for aviation noise and other environmental impacts. The measures and mitigations it has put

in place to protect residents are discussed in more detail below and include the power to fine airlines for non-compliant behaviour. It is worth noting that in taking forward its work, ACNUSA seeks to build trust and open communication between airports and local residents. For example its noise exposure and disturbance maps which determine where restrictions on development or compensation for residents should apply have been prepared and agreed in consultation with local government and communities.

3.9 In Australia, Community Aviation Consultation Groups (CACGs) have been established at a number of airports, following government guidance in 2011.⁵ The groups meet at least three times a year and enable airport operators, users, local authorities and communities to exchange information on issues relating to the airports operation and its impacts. Whilst development plans at the airport may be included in meeting agendas, the CACGs act as an addition to and do not replace existing requirements for consultation on such issues.

3.10 It is perhaps worth noting that some degree of public ownership of the airport is common to a number of these examples, as well as many other international airports. As such the interests of local dialogue and democratic accountability are more closely aligned to begin with.

Mitigation

3.11 Engagement is important to ensure that the views of local communities can be incorporated into scheme design and operation where possible. Nevertheless, new capacity can still create negative

⁵ http://www.infrastructure.gov.au/aviation/airport/planning/pdf/CACG_Guidelines.pdf

impacts and it is necessary to consider how those impacts can best be limited or offset in a way that provides some degree of reassurance for local communities.

Noise

3.12 The Commission recognises that the environmental impacts of aviation, and most particularly noise, are of significant importance to local communities. In its previous Discussion Paper on Aviation Noise, the Commission considered in detail a number of issues relating to the measurement of aviation noise and its effects as well as potential methods for reducing noise, mitigating its impacts or compensating communities affected.⁶ The responses the Commission received have informed its ongoing work, including the recommendations in its *Interim Report* and the Commission's framework for appraising short-listed schemes.

3.13 In its *Interim Report*, the Commission set out a number of recommendations for addressing aviation noise issues in the short term including: devolving airspace responsibilities to the Civil Aviation Authority (CAA), trialling early morning smoothing at Heathrow and establishing an Independent Aviation Noise Authority with a range of potential powers. The Commission awaits Government's response to these recommendations.

3.14 With regard to the longer term, the Commission has set out how it will take account of the noise impact of new capacity in its appraisal of short-listed schemes. The Commission recognises that noise is a complex issue and that its impacts can be measured in a number of ways. The Commission's Appraisal

Framework sets out how we will make use of a number of metrics in assessing the noise impacts of new capacity including multiple contours for LAeq and Lden as well as N70 daytime and N60 night 'number above' contours.⁷

3.15 As previously mentioned, a number of safeguards could be employed to mitigate or limit the noise impacts from new aviation capacity including:

3.16 planning caps: a numerical limit on the number of flights in and out of an airport in a given time period can be a simple and transparent way to place a cap on noise and other environmental impacts and can be included as a condition of planning consent. For example, Heathrow is currently limited to 480,000 ATMs per year and Stansted 35 million passengers and 264,000 ATMs per year. In 2009 the government of the day made an initial limit of 125,000 additional ATMs one of the conditions of its support for a third runway at Heathrow.⁸ However such an approach does not necessarily give airports and airlines incentive to improve noise or emission efficiency within this cap.

3.17 night flight restrictions: the Commission recognises that night time noise can be the most annoying and harmful for local residents. Bans on night time flights are enforced at a number of airports including Frankfurt (23.00-05.00), Zurich (23.30-06.00), Sydney (23.00-06.00), and London City (22.30-06.30). Restrictions on the

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223764/airports-commission-noise.pdf

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300223/airports-commission-appraisal-framework.pdf p 56 -63

⁸ This ATM limit was set to ensure that expansion did not increase the number of people affected by noise within the 57dBA Leq contour as at 2002 and was to be subject to review on this basis. In addition, the expansion should not infringe air quality regulations and required improvements to public transport. <http://www.parliament.uk/business/publications/research/briefing-papers/RP09-11/expansion-of-heathrow-airport>

number of night flights and noise quotas are in place at London Heathrow. However, it has been argued that the flexibility provided by a late night or early morning departure or arrival may play a role in improving and maintaining international connectivity for the UK to long haul destinations, including emerging economies.

- 3.18 respite periods:** at airports where runway alternation is an option, this can be used to provide predictable periods of respite when over-flown communities are switched around. This generally has the effect of increasing the number of people affected by noise but reducing the impact on individuals.
- 3.19 noise envelopes:** by setting a limit specifically on the noise produced at an airport, airports and airlines can be given flexibility and incentive to adopt operational procedures and technologies that limit noise. Such interventions might include revised flight paths, angles of take-off and descent, physical barriers to reduce ground noise, investing in quieter aircraft etc. This approach could also be adopted for other impacts such as carbon or other emissions. In some situations it may be necessary to consider the best balance between different objectives such as noise and fuel efficiency.
- 3.20 Fines or charges:** it may be worth considering what incentives are necessary to ensure compliance with and public trust in any noise or other environmental restrictions. It is airlines and not airports who hold the capability to deliver many noise reduction measures, such as investing in quieter aircraft. Airports in the UK currently have the facility to impose fines on airlines that do not comply with slot allocations or noise restrictions and can include the

noise impact of different aircraft in setting its landing fees. The Commission is interested in views on how such an approach might be maximised to incentivise best practice on noise in the case of new runway capacity and the potential impacts of doing so.

- 3.21** As previously mentioned, in France ACNUSA has the power to impose fines on airlines of up to €40,000 for infringements such as failure to respect slot allocations or for exceeding noise limits. Details of all fines levied are published online.
- 3.22** Similarly it is possible for financial incentives to be targeted in turn at airports. In France, the Tax on Air Transport Noise Pollution (TNSA) has been in effect since 2005. The tax is payable by airports and calculated on the basis of a broad assessment of the level of noise produced and number of people affected by the airport. Funds raised are ring-fenced for investment in the local area, including noise mitigation measures.⁹
- 3.23 Reducing noise impacts:** airports can seek to ensure that where sound is still produced, the level of annoyance that it causes is reduced where possible. Predictable periods of respite can be of benefit as can investment in double-glazing and other insulation that reduces the level of noise heard within homes and public buildings. Several UK airports, including Heathrow and Gatwick, currently have schemes that provide funding for local residents within a specified area towards the cost of double-glazing and loft insulation. The Secretary of State has powers to introduce noise insulation grant schemes, funded by airports, although

⁹ www.formulaires.modernisation.gouv.fr/gf/getNotice.do?cerfaNotice=51058%2307&cerfaFormulaire=12503*07

these powers have not been used for many years. Existing schemes are provided voluntarily by the relevant airports.

- 3.24 Internationally examples of statutory noise insulation programmes exist. As mentioned above, the TNSA in France can be used for insulation schemes. In the US the Federal Aviation Authority Passenger Facility Charge is levied on passengers and is used to fund a range of services including noise insulation schemes. Around Chicago O'Hare Airport over \$550m has been invested, insulating nearly 10,000 homes and more than 100 schools.¹⁰ Since the charge is levied across all passengers, investment can in effect represent a cross-subsidy of noisier airports.
- 3.25 In addition, changing or placing restrictions on how land is used within noise contours so as to reduce or repurpose residential buildings can reduce the impact of the same amount of noise by reducing the number of people affected or the level of annoyance felt. The Commission recognises that there can be competing pressures on land around airports. Indeed, as discussed in the Commission's previous Discussion Paper on Noise, the recent trend at UK airports has been towards 'encroachment' with a net increase in residential populations around airports from 1991 to 2001.¹¹ The Commission is interested to hear further views on this issue, in particular in relation to additional runway capacity.

¹⁰ http://www.oharenoise.org/about_us.htm

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223764/airports-commission-noise.pdf p 43

Other Environmental Impacts

- 3.26 The assessment of need set out in the Commission's *Interim Report* for an additional runway is consistent with the UK meeting its wider commitment on climate change. Nonetheless, the Commission continues to recognise the environmental impact of aviation and related activities. The Commission's *Appraisal Framework* sets out how the various environmental impacts of the short-listed schemes will be assessed, including greenhouse gas and other emissions that affect air quality.
- 3.27 There are a range of potential measures that could be used to control emissions, including international cap-and-trade schemes, domestic carbon taxes or a combination of the two. It is ultimately a matter for government, with advice from the Committee on Climate Change, to determine the appropriate framework for controlling aviation emissions.
- 3.28 In addition, developers have a legal obligation to secure compensatory habitat provision where development has an impact on biodiversity. Measures may also be employed that seek to mitigate any air quality impacts of increased airport capacity, for example through increasing the modal share of public transport for passengers and airport employees accessing the site.

Compensation

- 3.29 Where the negative impacts of development cannot be obviated, there can be a requirement for compensation.

Blight

- 3.30 In a planning context, 'blighted' refers to land and property that may be taken over or rendered uninhabitable by a development scheme. There is a legal minimum protection extended to

property owners by the Town and Country Planning Act 1990 and Planning Act 2008 which provides for their property to be purchased at its 'unblighted' value should it be required for a proposed development. Under these 'statutory blight' provisions, the property owner may seek compensation by serving a blight notice upon the relevant authority, compelling it to purchase the property immediately.

- 3.31 Property cannot be considered subject to statutory blight provisions, unless and until planning permission has been granted or land 'safeguarded', that is to say formally reserved for a development proposal made by a public authority that would require its demolition or render it uninhabitable.
- 3.32 The Government's *Aviation Policy Framework* sets out that it expects airports operators to offer households exposed to levels of noise of 69 dB LAeq16h or more, assistance with the costs of moving.¹² In addition, Government expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq16h or more and to review their compensation schemes in the light of any proposed new developments. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.¹³
- 3.33 As such, existing blight protection in law is quite tightly defined in terms of both the time at which it is deemed to apply and its geographical scope.

- 3.34 The term 'generalised blight' is commonly used to refer to a situation in which plans exist for a development that would cause blight but have not yet (and indeed ultimately may never) result in planning permission being granted or land safeguarded. There is no legal definition or established means of redress for generalised blight.
- 3.35 In its Interim Report the Commission recognised that uncertainty surrounding plans for airport development could have the potential to create difficulty for property owners before the point of statutory blight provision is reached. The Commission has encouraged Government and those promoting schemes to consider what steps can appropriately be taken to address these concerns. It is important that, at this early stage in the process, any measures are proportionate.
- 3.36 Heathrow and Gatwick airports have both set out how they would go beyond the legal minimum to compensate affected property owners if they were to go ahead with new runways. The Commission will consult fully on the short-listed schemes later this year and does not intend to discuss the particular merits of these proposals in this paper, but welcomes the renewed focus on this issue and is interested to hear views on such schemes.
- 3.37 In taking forward proposals for HS2, Government has also demonstrated a commitment to go beyond the legal minimum in compensating local property owners. In April, the Secretary of State for Transport announced proposals including an offer to purchase homes closest to the line at 110% of their unblighted value plus moving expenses and a voluntary purchase scheme for those in rural areas; and a 'need to sell'

¹² Aviation Policy Framework 2013, p 63 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153776/aviation-policy-framework.pdf

¹³ Ibid.

scheme to help those unable to sell homes because of HS2. The Government is also considering cash payment schemes for owner-occupiers in rural areas who choose not to move.¹⁴

Community benefits

- 3.38 As successful businesses, airports can deliver a range of benefits for local communities, including providing jobs, leveraging investment in surface access and public transport and contributing to local taxation. Expansion at an airport might be expected to generate increased benefits in these areas and provides an opportunity to consider how the benefits of expansion are best shared between the airport as a private company and the local community.
- 3.39 Recent developments in the energy sector in the UK demonstrate a possible new approach to sharing the benefits of development with local communities. For example the Government's strategy for community energy, albeit currently a relatively small sector, includes a commitment that it should become the norm by 2015 for communities to be offered shared ownership of off-shore renewable energy developments by commercial developers and to establish a Community Benefits Register for on-shore wind developments in England to help spread best practice.¹⁵ Government will also provide guidance to local communities, wind developers and local authorities on the process of negotiating community benefits and implementing community benefit funds.

The Grange Wind Farm Community Benefit Fund

The Grange Wind Farm in Lincolnshire, developed by RES, became operational in May 2013. Its community benefit fund worth an annual £28,000 provides financial support to community-based projects which contribute to the wellbeing of the local area and have particular educational, environmental or social emphasis. The fund is administered by the Lincolnshire Community Foundation and a panel of local people meet twice a year to decide how the fund should be allocated. Projects within a 10-mile radius of The Grange Wind Farm are eligible to apply for funding, with priority given to those within 5 miles of the wind farm.

- 3.40 In January, the Government announced its intention that local authorities in England should retain all of the business rates proceeds from hydraulic fracturing (fracking) in their areas. Currently a portion of business rates are retained locally and a portion pooled centrally and redistributed to councils based on an assessment of relative need. A similar arrangement already exists for renewable energy projects.¹⁷
- 3.41 Increasing the share of taxes retained locally could be seen as giving local authorities greater incentive to support development in their areas. It could also be viewed as a way in which more of the economic benefits of development are gained by local residents through increased spending on local services and amenities or by holding down other local taxes such as council tax.

¹⁴ <https://www.gov.uk/government/speeches/hs2-phase-one-property>

¹⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275163/20140126Community_Energy_Strategy.pdf

¹⁶ <http://www.the-grange-wind-farm.co.uk/>

¹⁷ <http://www.legislation.gov.uk/uksi/2013/108/regulation/12/made>

3.42 Turning again to the example of major transport infrastructure projects such as Crossrail and HS2 illustrates how developers can seek to act in a socially 'responsible' way and work with local communities to maximise the benefits of development in their areas. The Crossrail Community Investment Programme supports a number of projects through which Crossrail is donating skills, time and money to local communities.¹⁸ The government-appointed HS2 Growth Task Force looks to work with local authorities to enhance economic benefits. Its recently published report makes a number of recommendations to Government, including developing locally-led growth strategies.¹⁹

3.43 The Commission recognises that there are material differences between UK airport expansion and some of the examples cited, for example the geographical spread of people affected by development at an airport is likely to be wider than many other forms of development because of the impacts of noise. Similarly the private ownership of UK airports is not a model commonly found overseas. Nonetheless the Commission is keen to learn lessons from cross-sector and international experiences and to hear views on how the needs of local communities are best met in delivering new capacity.

Q: What are the factors the Commission should consider in relation to local communities and the delivery of new airport capacity?

18 <http://www.crossrail.co.uk/benefits/supporting-local-communities/>

19 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/294851/hs2-get-ready.pdf

4. The Role of the State

- 4.1 While airports in the UK are predominately privately owned and operated, there are a number of public bodies include national and local government, and various government agencies which may play a role in the delivery of new airport capacity.
- 4.2 It will be for the Government of the day to decide how to respond to the Commission's final report. Assuming it accepts the need for additional runway capacity, it may choose to take a hands-on role in securing and enabling its delivery or it may wish to see a more developer-led approach. It is assumed that the state will continue to play a role in ensuring that airports are safe and operate within an effective market that meets consumers' needs. In all cases, given the scale and complexity of delivering new runway capacity and the interactions with many different areas of public life, it is unlikely that government, both national and local, would play no role.
- 4.3 This chapter details a number of possible ways in which the state may become involved in the delivery of new airport capacity. It is not the intention of this paper to support or reject any such proposal. However, the Commission will welcome views on the implications of the role of the state for expeditious delivery of new airport capacity.

Funding

- 4.4 As part of its appraisal of short-listed options, the Commission will consider further their likely cost and commercial viability. Alongside this work it may be

helpful to consider the different potential roles Government could play in funding development and their implications. The Commission will consider how different balances between private and public funding may impact on delivery.

- 4.5 **Airport Infrastructure** – Whilst UK airports are predominately privately owned and operated, internationally this is often not the case, with airports being funded by state or municipal means. The UK's position means that public subsidy of the building of airport infrastructure at existing airports, such as new runways or terminal buildings, although perhaps in the public interest would need to be considered in the light of European Union rules on state aid. In effect, if proper protections were not put in place, government might be subsidising a private company by contributing to the cost of enhancing its assets which would probably constitute anti-competitive behaviour and an illegal state aid.
- 4.6 If building a brand new airport, such as on the Hoo peninsula, both public and private ownership models during construction and operation are theoretically plausible. Government may choose to purchase land and finance construction of an airport before selling the asset to an airport operator or even leasing the right to operate for a set period of time. Depending on the Government's final decision, it may wish to work in some form of partnership with those who have been developing ideas for a new airport in the inner Thames Estuary.

- 4.7 In theory it would even be possible for Government to purchase an existing airport site in order to drive through expansion and then put it back on the market. However this may be practically challenging and might risk undermining confidence in the market.
- 4.8 **Surface Access** – Improving or providing road and rail links to airports to enable their expansion will incur costs. Traditionally these costs have been met predominantly by local or national government, though in many cases contributions have been made by the private owners of relevant airports. Broadly this has been justified by reference to the wider societal benefit of this infrastructure. That is that surface access and public transport links are not just for the benefit of airport passengers but used by other people and businesses in the area. Where airport development supports local growth by providing more jobs and attracting more businesses to the area, which can in turn supports new housing, all of this background activity will also have an impact on local transport.
- 4.9 The Commission has set out its initial assessment of the surface transport needs for the short-listed schemes and for proposals in the inner Thames Estuary in its Interim Report. The Commission is doing further work on this analysis as part of its phase 2 analysis of short-listed schemes and separately as part of the inner Thames Estuary feasibility studies.
- 4.10 It is possible that the surface access requirements for airport development may, depending on the particular circumstances, also present a state aid challenge. For example, investment in new links to a new airport in the inner Thames Estuary or to reroute existing roads around expansion at Gatwick and Heathrow may arguably not otherwise be of benefit to the public and in effect be delivered wholly to support private sector development and the needs of those using the airport.
- 4.11 **Mitigation and Compensation Costs** – As discussed above, delivery of new airport capacity could be supported with mitigation and compensation schemes for local communities. As privately owned organisations, both Heathrow and Gatwick have set out proposals for how they would meet these costs as part of their proposals to the Commission.
- 4.12 Nonetheless, at their most wide-reaching such policies could be said to address an essentially political question of how the costs and benefits of meeting the strategic needs of society are best shared. As previously set out in this paper, international examples of statutory mitigation schemes funded by dedicated taxes or charges do exist. Similarly, compensation schemes for residents affected by HS2 will be taxpayer funded. The Commission is interested in views on the appropriateness or potential for Government to play a role in this space.
- 4.13 **Relocation/Transition Costs** –Siting a new airport in the inner Thames Estuary would have significant implications for existing airports whose airspace or market could be compromised and could require airlines, freight and possibly also local businesses both on the Hoo Peninsula and in proximity to Heathrow and other affected airports to relocate their centres of operations, all incurring costs.
- 4.14 The Commission's Interim Report sets out how an inner Thames Estuary option could impact on the airspace of London

City and London Southend airports, as well as potentially Heathrow or Gatwick, when fully operational. It is the Commission's view that Heathrow would likely need to close for a new hub airport in the inner Thames Estuary to be commercially viable. However, the impact on these 'blighted' businesses would not occur until the new airport began operations, creating a period of uncertainty and likely difficulty in raising private investment for these airports. The Commission's initial view is that the most credible response to this issue would be for Government or another agent to purchase the 'blighted' airports and operate them during the construction phase, to ensure an appropriate level of service, but is keen to hear other views and suggestions.

- 4.15 Expansion at existing sites at Heathrow or Gatwick may not necessitate closures elsewhere and resulting relocation costs. Nonetheless the cost of redesigning airspace for example and other arrangements prior to operation of any new capacity should not be forgotten.

Economic Regulation

- 4.16 The Commission is also interested in views on the role of the state in enabling as much as complementing private investment. Under current provisions, the CAA acts as the economic regulator of UK airports judged to hold substantial market power and issues licences which enable these airports to charge fees to their airline customers. In this role the CAA seeks to ensure that airports do not misuse their market power by, for example, setting charges at a level that would harm the interests of consumers.
- 4.17 The CAA determines whether individual airports have substantial market power, requiring it to intervene, and then has the power to impose an appropriate

form of economic regulation, which can include capping airport charges. The intention in regulating is to ensure that, in the absence of sufficient competition that would otherwise constrain their behaviour, airports provide a reasonable standard of customer service and do not charge their customers more than required to support efficient investment in their businesses and a reasonable rate of return.

- 4.18 Historically economic regulation was done by setting a price control linked to the size of the airports regulatory asset base (RAB) and set for a five-year period. However, the Civil Aviation Act 2012 has granted the CAA greater flexibility in how it regulates airports, including over what form of approach to take as well as the control period for which arrangements apply before they are reconsidered.
- 4.19 Private investors in any new airport capacity will of course want to see return on this investment, which may in turn put pressure on airport charges. The Commission is interested in views on how the economic regulatory environment can best support and enable private investment whilst being fair to airlines, airports, passengers and taxpayers and incentivising best value for money for all parties.
- 4.20 With regard to efficient delivery of new capacity, the Commission is aware that ensuring the economic 'licenceability' if required of any proposals will be part of finalising its commercial viability and financing plans and an essential step along the delivery path. To this end the Commission is keen to see effective working amongst interested parties on this issue at an early stage. The Commission notes the work the CAA is currently doing to consider future

regulatory issues with airlines, airports and other stakeholders, including its recently published discussion paper.

4.21 The Commission also welcomes views on any other proposals for how the state might best enable private investment in new airport capacity.

Safety and Security Regulation

4.22 In addition to its role as the economic regulator, the CAA also has responsibility for ensuring that airports manage safety and security, including ensuring compliance with regulations set by Government. A key feature of safe airport operations is the design and implementation of effective use of airspace, which must be coordinated nationally and internationally with other airports and airspace users. This is a task in which NATS, the UK airspace authority plays a key role.

4.23 Clearly the primary focus of this activity must be to ensure the safety of passengers and others. However, it is worth noting that there is work that must be done in this area as part of delivering any new capacity and that this represents another point of interaction between the airport and the state.

Administration

4.24 In recent history, the UK Government has established dedicated publicly-funded bodies to lead the delivery of major pieces of nationally important infrastructure such as Crossrail, the Olympics and HS2:

- the Olympic Delivery Authority (ODA) was established by an Act of Parliament to bring together the various planning, funding and regulatory functions necessary to deliver the Olympic Park facilities, transport links and related

development for the Olympic and Paralympic Games and to oversee their legacy use and related regeneration.²⁰

- Crossrail Ltd was established in 2001 with funding from Transport for London (TfL) and the Department for Transport and is now a fully owned subsidiary of TfL. It is responsible for delivery of the crossrail project and for engaging with stakeholders to boost economic growth.
- HS2 Ltd is the company responsible for developing and promoting the UK's new high speed rail network and is wholly owned by the Department for Transport.

4.25 In the case of new runway capacity, the scheme may be developed and led by a private promoter or conceivably by Government as with the major projects above. With any scheme, there will be a number of 'public' interests that will need to be coordinated, including:

- Provision of surface access – however funded, any improvements to road and rail links will need to bring together different delivery arms such as Network Rail and a reformed Highways Agency. Improvements may be required in phases to match developments at the airfield and meet forecast demand, which may in turn require alignment with wider public investment and delivery cycles;
- New airport capacity may necessitate wider housing or other development;
- As set out above agencies such as the CAA and NATS will have an interest in ensuring that any new capacity is safe and secure and meets customers' needs;

²⁰ The London Olympic Games and Paralympic Games Act 2006

- Local authorities may play a key role in both the decision-making and delivery process and may be the delivery agents for particular mitigations. Local authorities would need to develop or adapt local plans to take account of the economic, environmental and social impacts of any airport development; and
- The level of public and parliamentary interest in any scheme and its progress is likely to be high. This will be even greater if public money is invested.

4.26 In the case of a new airport on the Hoo peninsula, the comparison with major public projects such as HS2, Crossrail and the Olympics may be of particular relevance, given the comparable scale and complexity of what is envisaged. The Commission is currently undertaking further work to ascertain some of the implications of a new airport on the Hoo peninsula as part of its feasibility studies. As set out in the Interim Report, issues could include:

- potential removal and re-siting of energy facilities on the Isle of Grain, including Grain LNG, National Grid liquefied natural gas facility;
 - as discussed above, the potential compulsory purchase, operation during construction phase and then redevelopment of Heathrow airport as well as finding a similar solution for London City and London Southend airports;
 - delivery of significant new road and rail surface access to and from the Hoo peninsula and consideration of the wider transport impacts across London and the South East and beyond;
- securing housing for workforce at the new airport. Current Government position is that planning permission for housing cannot be secured as part of an NSIP; and
 - securing appropriate compensatory habitats site(s) as environment mitigation for Natura 2000 site impacted by the development.

4.27 Given their potential interaction, the questions of state administration and funding of new capacity are perhaps best considered in parallel.

4.28 The Commission is interested in views on how far the state could or should be drawn in to the delivery of new runway capacity. As part of its further analysis of short-listed schemes, the Commission will be considering the cost and commercial viability of proposals and this analysis will provide some insight into the necessity or otherwise of public funding. In considering how new capacity is best delivered the Commission wishes to seek wider views on the pros and cons of state intervention.

Q: What are your views on the potential roles of the state in enabling the delivery of new airport capacity?

Q: How can public and private sector interest be best coordinated to deliver new airport capacity as expeditiously as practicable?

5. Next Steps

5.1 The Commission will use responses to this Discussion Paper to inform the development of its recommendations and Final Report to Government to be delivered by summer 2015.

5.2 The Final Report will set out the Commission's recommendations on how its final recommendation for meeting the UK's international connectivity need can be delivered as expeditiously as practicable within the required timescale.

How to Respond

5.3 The Commission recognises that a number of the issues discussed in this paper are specialist or technical. It welcomes views on all aspects of airport capacity delivery. In particular:

Legal and Planning Issues

Q: What do you think of the options for securing planning consent on new airport capacity? What are their particular strengths or weaknesses?

Q: Are there any others options that the Commission should consider?

Local Communities

Q: What are the factors the Commission should consider in relation to local communities and the delivery of new airport capacity?

Role of the State

Q: What are your views on the potential roles of the state in enabling the delivery of new airport capacity?

Q: How can public and private sector interest be best coordinated to deliver new airport capacity as expeditiously as practicable?

General

Q: Are these the right issues for the Commission to consider in relation to the expeditious delivery of any new airport capacity?

5.4 This discussion paper and any comments received will inform the Commission's understanding of the wider delivery issues to be considered in taking forward any new scheme. It is not intended to be a forum for views on the 'deliverability' of any individual scheme. The Commission has already set out how it will assess all aspects (including the delivery) of short-listed schemes in its Appraisal Framework and will consult on its appraisal of short-listed schemes later this year. As such, views on the merits of particular airport schemes are not sought by this discussion paper. Evidence that will enable the Commission to better understand how any airport infrastructure is best delivered is welcomed and will enhance the Commission's understanding of the wider context in making its final recommendations.

5.5 Submissions of evidence should be no longer than 15 pages and should be emailed to airports.delivery@airports.gsi.gov.uk clearly marked as a response to the 'Delivery Discussion Paper'. Evidence will be reviewed thereafter by the Commission. If further information or

clarification is required, the Airports Commission secretariat will be in touch.

5.6 Please provide submissions and evidence by Friday 15 August.

5.7 In exceptional circumstances we will accept submissions in hard copy. If you need to submit a hard copy, please provide two copies to the Commission Secretariat at the following address:

Airports Commission
6th Floor Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

5.8 We regret that we are not able to receive faxed documents.

Contact Information

Website: www.gov.uk/government/organisations/airports-commission

Email: airports.enquiries@airports.gsi.gov.uk