



Press release from Heathrow Hub, Extended Runway scheme

Heathrow Hub Extended Runway's Judicial Review hearing commences

11th March 2019 – The Judicial Review of the Government's decision to support Heathrow Airport Ltd's 3rd Runway commences today in the High Court of Justice in London.

Heathrow Hub, the independent proposal for expanding Heathrow Airport via an extension to the Northern Runway (ENR), is one of several claimants. The extended runway is the rival scheme for Heathrow expansion and was deemed viable by the Airports Commission.

It is Heathrow Hub's contention that the process run by the Department for Transport, which commenced when it set up the Airports Commission in 2013 and culminated in the National Policy Statement (NPS) being placed before Parliament, was flawed and unlawful. As a result, by selecting Heathrow Airport Ltd's North West Runway (NWR) proposal, the Secretary of State Chris Grayling has selected the most expensive, complex, disruptive expansion plan which, among other things, we believe will unnecessarily cause a substantial rise in fees for passengers and airlines.

Under the Judicial Review, under Section 13 of the Planning Act 2008, the Secretary of State is the Defendant and Heathrow Airport Ltd is also added as an Interested Party.

According to our skeleton argument submitted to the court, Heathrow Hub Ltd and its sister company Runway Innovations Ltd, have brought their case against the Secretary of State for Transport based on the following four grounds:

- 1. Competition – Breach of Article 106(1) Treaty on the Functioning of the European Union TFEU read in conjunction with Article 102 TFEU**

We claim that the Secretary of State acted unlawfully in making it an effective precondition of selecting Heathrow Hub's ENR scheme that Heathrow Airport guarantee that it would implement the scheme. This effectively gave Heathrow Airport Ltd, which was a competitor to the ENR Scheme, a veto over Heathrow Hub's proposal. It was unlawful for the Secretary of State, under Article 106 of the Treaty on the Functioning of the European Union, read in conjunction with Article 102, to impose such a requirement or condition;



2. Legitimate Expectation

We claim that, in rejecting Heathrow Hub's proposal for the ENR scheme, the Secretary of State acted in breach of Heathrow Hub's legitimate expectation that the Secretary of State would not reject the ENR scheme relying (solely or in part) on Heathrow Airport Ltd's failure to give a guarantee that it would implement the ENR scheme if the Secretary of State found it to be the most suitable scheme;

3. Failure to provide intelligible reasons on capacity

We claim that, in accepting Heathrow Airport Ltd's NWR scheme and rejecting the ENR scheme, the Secretary of State had regard to an immaterial consideration, namely his factually incorrect assumption that the NWR scheme provided greater capacity for air traffic movements ("ATMs") and more respite (pauses for local residents from noise exposure), and/or he failed to have regard to a material consideration, namely the evidence which demonstrated that the ENR scheme provided for at least the same capacity in terms of ATMs as the NWR scheme and that the NWR scheme could not in practice deliver the levels of respite attributed to it, while the ENR scheme could at least match it or deliver greater respite;

4. Failure to provide intelligible reasons on safety and delay

In rejecting the ENR scheme, the Secretary of State claimed that the ENR scheme, "has no direct global precedent," and concluded that resulted in greater uncertainty as to what measures would be needed to ensure the airport can operate safely.

We claim that this reason for the rejection of the ENR scheme was based on nothing more than assertion and speculation and was also contrary to all of the evidence presented to the Secretary of State on the issues of safety and deliverability. Heathrow Hub has completed a thorough and independent safety review with aviation experts and the CAA, while no such review has been carried out for the NWR scheme. Furthermore, ENR can be built in phases and as it is cheaper and simpler to build, would be operational before the NWR scheme, even at this late stage.

Heathrow Hub's element of the Judicial Review is expected to be heard towards the end of the two-week hearing, on Wednesday 20th March, Thursday 21st March and Friday 22nd of March.

Heathrow Hub has reserved its position on what relief it is seeking, but we have contended that if we are successful then the NPS should be quashed. It is our belief that if our extended option was adopted in the future, it could be operational sooner than Heathrow Airport Ltd's NWR scheme.



Heathrow Hub's legal advisers are DAC Beachcroft LLP, Martin Kingston QC and Satnam Choongh of No 5 Chambers as well as Robert O'Donoghue QC and Emma Mockford of Brick Court Chambers.

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Notes to editors

Heathrow Hub is an independent proposal for expansion at Heathrow, by extending the existing northern runway westwards away from London, negating the need to build a third runway. Planes would land at one end and take off at the other. The scheme is cheaper, quicker and simpler. It also destroys fewer houses and was deemed viable by the Airports Commission. For more information and images, please visit: www.heathrowhub.com

Heathrow Hub's proposal to extend the Northern Runway has been independently costed at £3.9bn for its first phase, or £9.7bn for the full scheme. It can be funded by keeping existing passenger fees flat. Heathrow Hub's principal investor, Anthony Clake, has committed to giving any profits he makes from the scheme to London and Heathrow charities, with a focus on youth and the environment.