

Response by the London Forum of Amenity and Civic Societies to the Airports Commission consultation on air quality aspects of the short listed airport options

Introduction

1. This is a response by the London Forum of Amenity and Civic Societies to the consultation issued by the Commission on 8 May 2015 on air quality aspects of the short listed airports options.
2. The London Forum is the coordinating body for approximately 100 amenity and civic societies across London, which together have around 50,000 individual members. The Forum responded on 2 February 2015 to the Commission's previous consultation on the short listed airport options. As in that case, individual amenity and civic societies may also respond separately in some cases.
3. **The London Forum believes that the further work carried out by Jacobs consultants, and which forms the basis for the Commission's present consultation, strongly reinforces the case against either of the Heathrow expansion options (North West Runway (NWR) option and Extended Northern Runway (ENR) option).**
4. **The Forum also believes that the case against expansion is reinforced by the UK Supreme Court judgment given on 29 April 2015, which requires the UK Government to produce plans by the end of 2015 aimed at compliance with EU legal requirements on air quality as soon as possible. (This judgment, which takes account of an earlier judgment (in November 2014) by the Court of Justice of the European Communities (CJEU) , is not referred to in the Airports Commission consultation – an important and surprising omission.)**

Argument

5. The main reasons why the London Forum takes this view are as follows.
6. First, the consultants' report identifies the substantial economic costs, stemming largely from adverse health impacts, of either Heathrow expansion option (estimated at £470m - £1300m for the NWR option and £352 - £971 for the ENR option).
7. Second, the consultants emphasise the considerable uncertainties over the feasibility of delivery of the mitigation suggestions proposed by the promoters of each of the two Heathrow schemes, or by Transport for London. As a result of this there must be considerable doubts over whether they will be able to offset the

adverse air quality impacts. Moreover in many cases they would depend on separate detailed consultation, the results of which cannot be assumed.

8. Third, the consultants' report highlights that the effect of each Heathrow scheme would lead to delay in the UK Government achieving compliance with EU legal requirements on NO₂ limits.
9. This third point deserves particular emphasis given the UK Supreme Court judgment on 29 April 2015. In the light of this judgment and the earlier judgment by the CJEU, the UK Government is required to produce plans by the end of 2015 showing compliance as soon as possible with EU requirements for NO₂ concentrations. This is likely to be a very difficult task. The UK Government has previously pointed out that the difficulty stems considerably from previous failure of EU vehicle emission requirements for diesel vehicles to achieve the NO₂ reductions originally expected, and has emphasised that these emission requirements have not been within its direct control.
10. However the choice of airport expansion option is within the UK Government's direct control. So this is a measure which would move the UK further away from achieving compliance with EU requirements, for which the UK Government would have to take direct responsibility not only in any further negotiations with the EU Commission over compliance, following the two court judgments, but also in any subsequent legal proceedings, at either the UK or EU level. It seems far from clear whether the UK Government would be able to win such an argument, given that, by choosing a Heathrow expansion option it would voluntarily have selected an option with substantial adverse quality impacts, and rejected others, with much fewer adverse air quality impacts.
11. Consequently choosing either of the two Heathrow options would introduce a substantial extra degree of legal risk and could leave the Government and the promoters of any Heathrow scheme, were one to be selected, at significant risk of further legal challenge, as well as the possibility of infraction fines imposed by the CJEU for unreasonable failure to meet EU requirements.
12. Given this position, the London Forum believes that the air quality impacts strongly reinforce its earlier opposition to either of the two Heathrow expansion options considered by the Airports Commission.