

Board

Date: 15 December 2016

Item: Aviation

This paper will be considered in public

1 Summary

Decision required	The Board is asked to note the paper.
Previous Consideration	None
Sponsoring Director	Contact Officer: Alex Williams, Acting Managing Director - Planning Number: 020 3054 7023 Email: alexwilliams@tfl.gov.uk
Information classification	Public.
Summary	
<p>1.1 The purpose of this paper is to update the Board on the Aviation work that will be undertaken by TfL following the Government announcement to proceed with a third runway at Heathrow and the subsequent Mayoral direction (MD2048) authorising TfL activity on this issue, including technical support for potential legal challenges.</p> <p>1.2 Regular updates will be provided to the Board on this work and the Government's developing position.</p>	

2 Recommendation

2.1 **The Board is asked to note the paper.**

3 Background

- 3.1 The Government announced on 25 October 2016 that it was accepting the Airports Commission recommendation and would support a third runway at Heathrow.
- 3.2 The Government will now develop a draft National Policy Statement (NPS) for consultation in early 2017, alongside a new Aviation Policy Framework which will consider wider factors such as changes to flight paths. Consultation on the NPS will be followed by a parliamentary process including scrutiny by a Select Committee and is likely to conclude with a Parliamentary vote.
- 3.3 On 27 October 2016, we updated the Mayor on how this will affect London and our concerns relate to three main issues: air quality, noise and surface access.

The key points to note on each are set out below, together with our initial response.

4 Key issues

- 4.1 The overall approach made by the Government appears to be that the public health benefits that will derive from changes because of wider improvements expected in the noise and air quality environment – including aircraft technology, flightpath changes and London’s efforts on NO₂ including LEZ and ULEZ extensions and low emission buses and taxis – should be used to allow expansion, rather than accruing to local communities.

Air Quality

- 4.2 The Government has stated that a new runway at Heathrow is deliverable within air quality limits, if necessary mitigation measures are put in place.
- 4.3 However, legal limits for NO₂ are already exceeded in the vicinity of the airport and as one of the worst air quality hotspots in London, it presents a challenge to achieve compliance even without expansion. More airport capacity will worsen this situation and it has yet to be shown that Heathrow expansion could be achieved within air quality limits.
- 4.4 The Government will need to undertake a new assessment of the air quality impacts of expansion, in light of the new Air Quality Action Plan that will need to be developed following the quashing of the old plan on 2 November 2016. This will need to include more realistic emissions factors.

Noise

- 4.5 The Government accepts the Airports Commission’s view that fewer people will be affected by noise by 2030 than are today. However, our analysis indicates that at least 200,000 additional people will be exposed to unacceptable levels of noise if a like for like comparison is made.
- 4.6 The Government has also indicated it will introduce a six-and-a-half hour ban on scheduled night flights, with a consultation on the exact timing. If it adopts the timing proposed by the Airports Commission (11.30pm-6am), we expect it to result in 32 per cent more night flights than today taking place in the full night period (11pm-7am). Heathrow Airport Limited has proposed a different timing (11pm-5.30am), which would likely result in even more flights during the full night period than the Airports Commission proposal.
- 4.7 We will need to understand how these statements develop into policy once the Government publishes its draft NPS and Aviation Policy Framework in early 2017. Any further work we carry out will need to be informed by these documents and is likely to include refreshing our noise modelling to take into account any changes.

Surface Access

- 4.8 The Government has accepted Heathrow’s aspiration to expansion without an increase in highway trips by airport passengers and staff, and to increase the mode share of people accessing the airport by public transport to 55 per cent.

- 4.9 The Government and the airport have agreed that no new rail infrastructure will be required for the opening of a third runway, nor are there commitments to funding any. This is disappointing and represents a substantial watering down of the Airports Commission's recommendations that only a Southern Rail Access would be required. Our view remains that without significant rail investment, Heathrow's aspirations for a sizeable mode shift to public transport are not credible.

5 The Mayor's position and the process of legal challenge

- 5.1 On 17 November 2016 the Mayor signed MD2048, 'Direction to TfL on proposals for a third runway at Heathrow'. This directs TfL to assess the Government's proposal, engage further with it on the development of an NPS, and provide technical advice and assistance to affected borough councils, environmental groups and any other relevant party who is (or is contemplating) challenging the decision. This may include analysing the case for an alternative option of building a second runway at Gatwick. The Mayor also directed us to join in any such legal action if it is appropriate for us to do so.
- 5.2 Also on 17 November 2016, the London Boroughs of Hillingdon, Richmond upon Thames and Wandsworth and the Royal Borough of Windsor and Maidenhead, together with Greenpeace and a resident of the London Borough of Hillingdon, announced that they had sent a pre-action protocol letter to the Secretary of State for Transport demanding he withdraws Government support for Heathrow expansion or face court action. They named TfL as an interested party alongside Heathrow, Gatwick and the Department for Environment, Food and Rural Affairs.
- 5.3 This is the first step in the process of bringing a judicial review claim against the Government. We are in communication with the Councils and campaigners concerned. They are aware of the offer of our support as directed by the Mayor and we have informed the claimants' solicitor that we will participate as an interested party in the action. We have also suggested that the Mayor be joined as an interested party given his responsibilities in respect of air quality and health.
- 5.4 The Secretary of State has responded to the claimants' letter and has indicated that he plans to apply for the claim to be struck out on the grounds that it is premature. The Planning Act limits when a National Policy Statement (NPS) can be challenged and the Secretary of State argues that the recent decision on Heathrow is a connected decision and is subject to those rules. If successful, it would mean that the claim would need to be deferred until after the NPS is published (expected in late 2017/early 2018). The Court is likely to decide whether the claim can proceed late next month or early February.

6 Next steps

- 6.1 We will continue with our work in this area and provide regular updates to the Board on this and the Government's developing position. This will either be through update in the Commissioners report or where appropriate separate reports on this specific issue.

7 Financial Implications

- 7.1 The Mayoral direction MD2048 approves the use of up to £1m for this work. If the work required exceeds this amount then further authority will need to be sought from the Mayor.

List of appendices to this report:

None

List of Background Papers:

None