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1 March 2019

**Written Statement of Heathrow Airport Limited in respect of Matter for Consideration M87  
Reference ID: 2914**

**Introduction and summary**

1. Heathrow welcomes the opportunity to submit this written statement on the draft new London Plan (the Plan). This should be read together with our original representations submitted in March 2018 which generally welcomed many aspects of the Plan noting much alignment between Heathrow's and the Mayor's aspirations.
2. Since our March 2018 submission the Airports National Policy Statement (ANPS) was designated on 26 June 2018. It sets the policy basis for the expansion of Heathrow Airport through the construction of a new northwest runway (a Nationally Significant Infrastructure Project (NSIP)). A Development Consent Order (DCO) application will be submitted by Heathrow in due course and will be assessed by the Planning Inspectorate against the ANPS.
3. The Planning Act 2008 (s.104) requires applications for NSIPs, such as Heathrow's third runway, to be determined in accordance with the relevant NPS. Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires determination in accordance with the development plan, does not apply to NSIPs.
4. It is therefore inappropriate and unsound for the London Plan to include a policy that seeks to object to the principle of Heathrow's expansion and set tests that are inconsistent with the ANPS.
5. These principles should not be controversial. They have been tested and established in various local plan examinations where an NSIP was within the area of the plan.<sup>1</sup>
6. In summary, for the detailed reasons set out below, Heathrow submits that Policy T8 goes beyond the remit of the Plan by attempting to set policy tests for the expansion of Heathrow Airport and by containing policies which are inconsistent with the ANPS.

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<sup>1</sup> See for example the Sedgemoor Local Plan examination and the recent London Borough of Hillingdon Local Plan examination Post-Hearing Advice Note.

## Matter for Consideration M87

7. The Matter for Consideration M87 asks three questions. We answer each in turn:

### Question (a): Are the requirements of Policy T8 necessary to address the strategic priorities of London and, if so, would they be effective in that regard?

8. The requirements of Policy T8 that relate to Heathrow's expansion are not necessary to address the strategic priorities of London. Policies for Heathrow's expansion are contained within the ANPS. Moreover, there are specific areas of the Policy that stray into other areas already addressed in the Plan, particularly on noise (D13, subject to the removal of 'non-aviation' criteria) and air quality (Policy SI1) considerations. It is unnecessary for policy T8 to repeat these.

### Question (b): Or does Policy T8 cover matters that are dealt with by national policy and/or would be more appropriately dealt with through local plans or neighbourhood plans?

9. Section 104 of the Planning Act 2008 requires that any application for a DCO must be decided in accordance with the relevant National Policy Statement. Policy T8 is inconsistent with that statutory framework as it sets new tests beyond those found in the ANPS.

10. We highlight the following examples from Policy T8 and its supporting text.

- (i) **T8C:** This states that any expansion may be required to demonstrate an overriding public interest and that there is no suitable alternative solution with fewer environmental impacts. For Heathrow's expansion, these tests have already been undertaken through the Airports Commission process and confirmed through the ANPS.
- (ii) **T8D:** This states that the Mayor will oppose Heathrow's expansion unless no additional noise or air quality harm would result and that the benefits of future regulatory and technology improvements would be fairly shared with affected communities. In this respect, we point out that:
  - a. Tests for the acceptability of Heathrow's expansion are already contained in the ANPS and will be assessed through a DCO application.
  - b. Further, these tests are inconsistent with the ANPS, which already contains detailed policies on noise and air quality, including the sharing of benefits: see ANPS paras 5.23-68, especially 5.42-43 and 5.67-68. For example, the ANPS provides that the Secretary of State will need to be satisfied that the expansion proposals "avoid significant adverse impacts on health and quality of life from noise", and "mitigate and minimise adverse impacts on health and quality of life from noise" (para 5.68). In respect of air quality, it provides that "the Secretary of State will need to be satisfied that, with mitigation, the scheme would be compliant with legal obligations that provide for the protection of human health and the environment" (para 5.43). These tests are different to those in Policy T8D.

For these reasons, Policy T8D is inappropriate and unsound as it fails to sit within the framework of national planning policy.

- (iii) **T8F:** The requirement that "Any changes to London's airspace must treat London's major airports equitably when airspace is allocated" is a matter for the Civil Aviation Authority through the airspace change process. Policy on airspace change cannot be enforced by the Mayor.

- (iv) **Para 10.8.4:** The statement that “*Heathrow airport’s current operations are already a cause of concern for hundreds of thousands of Londoners, with its significant noise impacts and illegal levels of air pollution*” is an un-evidenced and misleading assertion. Para 6.24 of our March 2018 submission sets out why it is wrong to attribute illegal levels of air pollution to Heathrow. A spatial development strategy should not be making contentious (and in our view, clearly inaccurate) allegations of illegality.
- (v) **Para 10.8.7:** This sets out the Mayor’s position that Gatwick expansion is a quicker and cheaper alternative to Heathrow and with fewer environmental impacts. This position, which implies that Heathrow expansion would fail policy test T8C, is clearly contrary to the fundamental proposition in the ANPS. This supporting text appears to set out the Mayor’s political stance on Heathrow’s expansion - that is not the role of the spatial strategy<sup>2</sup>.

11. We consider that Policy T8 and its supporting text requires significant revision for it to be sound. Crucially, it should avoid any applicability to Heathrow’s expansion.

**Question (c): Are changes to Policy T8 and/or other parts of the Plan necessary to ensure consistency with national policy relating to Heathrow Airport including the ANPS?**

12. Table 1 sets out our proposed revisions to Policy T8. Table 2 sets out our proposed changes to the supporting text.

**Table 1: Proposed revisions to Policy T8**

Heathrow’s proposed changes	Comments
<p>C. The environmental and health impacts of aviation must be fully acknowledged and the aviation industry should fully meet its external and environmental costs particularly in respect of noise, air quality and climate change; any airport expansion scheme must be appropriately assessed and <del>if required</del> demonstrate that there is <del>an overriding public interest or</del> no suitable alternative solution with fewer environmental impacts.</p>	<p>The struck through text should be deleted as it does not clearly set out when this part of the policy takes effect or how to demonstrate an ‘overriding public interest’.</p>
<p>D. <del>The Mayor will oppose the expansion of Heathrow Airport unless it can be shown that no additional noise or air quality harm would result, and that the benefits of future regulatory and technology improvements would be fairly shared with affected communities.</del> With respect to the expansion of Heathrow Airport, the Airports National Policy Statement will be the primary basis for</p>	<p>Ensures consistency with the ANPS</p>

<sup>2</sup> See also to similar effect the conclusion in para. 6.35 of the Panel Report for the Draft Replacement London Plan, March 2011 (NLP/AD/04)

<p>considering a Development Consent Order application and identifies relevant considerations required to assess whether expansion should proceed. This decision will be made by the Secretary of State following examination by the Planning Inspectorate. The Mayor's role in the Development Consent Order process will be as statutory consultee and not decision maker.</p>	
<p>F. Proposals that would lead to changes in airport operations or air traffic movements must take full account of their environmental impacts and the views of affected communities. Any changes to London's airspace <del>must treat London's major airports equitably when airspace is allocated.</del> will be dealt with by the Civil Aviation Authority's Airspace Change Process (Civil Aviation Publication 1616).</p>	<p>Removes inconsistency in relation to airspace change process.</p>

**Table 2: Proposed changes to the supporting text**

Heathrow's proposed changes	Comments
<p>Para. 10.8.4. The Mayor recognises the need for additional runway capacity in the south east of England, but this should not be at the expense of London's environment or the health of its residents. <del>Heathrow airport's current operations are already a cause of concern for hundreds of thousands of Londoners, with its significant noise impacts and illegal levels of air pollution.</del></p>	<p>Removal of offending text</p>
<p>Para. 10.8.7. <del>The Mayor will therefore strongly oppose any expansion of Heathrow Airport that would result in additional environmental harm or negative public health impacts. Air quality gains secured by the Mayor or noise reductions resulting from new technology must be used to improve public health, not to support expansion. The Mayor also believes that expansion at Gatwick could deliver significant benefits to London and the UK more quickly, at less cost, and with significantly fewer adverse environmental impacts. Stansted Airport could, in due course, make better use of its single runway if its flight cap were raised, subject to appropriate environmental mitigation and controls. London City Airport is working to</del></p>	<p>All text deleted as it is not relevant to the spatial planning of London and in particular does not serve to provide guidance to the Examining Authority for considering Heathrow's expansion. The designation of the ANPS has settled the decision on where runway capacity in the south east should be located.</p>

~~upgrade its passenger facilities and enhance operational efficiency in conjunction with the introduction of additional environmental mitigation measures and what amounts to a reduction of its maximum permitted number of movements and the introduction of additional environmental mitigation measures. Luton and Southend airports are also undertaking substantial upgrades of their terminal facilities.~~

### Preliminary Question PQ13

13. In Preliminary Question 13 the Panel asked the Mayor what changes would need to be made to policy T8D (and other parts of the Plan) to ensure consistency with the ANPS.
14. The Mayor's response, in summary, was that no changes are required and that T8D is *"helpful to provide a level of guidance in terms of what the mitigation needs to achieve."* This is considered by the Mayor to not be inconsistent with the ANPS, but rather *"provides a level of clarity that is absent from it"*.
15. We disagree. Policy T8D is specifically attempting to set requirements for the assessment of Heathrow's expansion. That goes beyond the remit of the Plan. The ANPS has been subject to extensive consultation and parliamentary scrutiny prior to its adoption, which is where any further tests proposed by the Mayor would have been considered. It is now for the Examining Authority and the Secretary of State to consider whether consent should be granted for expansion based on the tests set out in the ANPS.
16. The Mayor is incorrect to suggest that T8D provides a level of clarity on mitigation *"that is absent from"* the ANPS. The ANPS contains extensive and clear provision on mitigation: see paras 5.35-43 and 5.54-68 of the ANPS on air quality and noise mitigation respectively and what it needs to achieve. The Mayor's tests in Policy T8D are inconsistent with those in the ANPS: see para 11 above.

### Conclusion

17. We therefore respectfully ask the Panel to closely consider the Mayor's proposals to ensure consistency and alignment with national policy and the decision-making framework for NSIPs such as a Heathrow's proposed Northwest Runway.

Heathrow Airport Limited.