

Huw Irranca-Davies MP
Chair
Environmental Audit Committee
House of Commons
London SW1 0AA

2 September 2015

Dear Mr Irranca-Davies

The Airports Commission report: Carbon emissions, air quality and noise inquiry

1. I am writing on behalf of Clean Air in London (CAL) to respond to the Environmental Audit Committee's (EAC's) inquiry into the Airports Commission's report (the Inquiry).
2. CAL is a voluntary organisation which campaigns to achieve urgently and sustainably full compliance with World Health Organisation (WHO) guidelines for air quality throughout London and elsewhere. Further information about CAL can be found at <http://cleanair.london/>.
3. CAL is independent of any government funding, has cross party support and a large number of supporters, both individuals and organisations. CAL provides a channel for both public concern and expert opinion on air pollution. This document provides both general and expert comments in response to the Inquiry.
4. Airport related traffic is a major cause of air pollution in London, which in turn causes thousands of premature deaths per year, and many thousands more illnesses, chronic illnesses and disabilities. For this reason, airport expansion impacts on air pollution.
5. The Davies Commission into London airport capacity makes some ambiguous remarks about the relevance of Directive 2008/50/EC on ambient air quality and cleaner air for Europe (the Directive). CAL makes two points.
6. First, if the Davies Commission is suggesting that the only relevant requirement is that additional runway capacity should not delay in time average compliance throughout the London zone, then it has misdirected itself on the law. For example:
 - i. the limit values must be met throughout each zone (save in three specifically excepted circumstances defined in Annex III(A)(2) of the Directive).
 - ii. air quality must not be made even less compliant in areas where it is already in breach.
7. Second, any suggestion that the additional capacity could be constructed but on the basis that it would not be brought into operation until air quality was, and would remain, compliant with the Directive would, in present circumstances, be inconsistent with the duty of restraint in the last part of the Treaty on European Union (TEU) Article 4 (3).

The TEU can be seen here:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M/TXT&from=EN>

Unless a robust, realisable and enforceable air quality plan is in place which can demonstrably ensure compliance after the additional capacity comes into operation then the duty of cooperation under TEU Article 4 (3) requires the UK to refrain from constructing such additional capacity.

8. CAL made similar points to the Airports Commission in a letter dated 23 May 2015 responding to its consultation on new evidence relating to an air quality assessment of the three short-listed options for additional airport capacity. Our response to the Airports Commission can be seen here:

<http://cleanair.london/legal/airport-expansion-at-heathrow-or-gatwick-would-breach-air-pollution-laws/>

9. CAL is seeking an authoritative legal opinion on this matter and will share it with the EAC when available.
10. In CAL's considered opinion any decision to approve airport expansion at Heathrow would breach air quality laws unless at a minimum there is an existing robust, realisable and enforceable plan in place to ban diesel vehicles for many miles around the airport, including the M4 and M25 motorways, before the additional capacity comes into operation.

I would welcome the opportunity to give oral evidence to the EAC if invited to do so.

Yours sincerely

Simon Birkett
Founder and Director
Clean Air in London