To:
Airports Commission
6 Floor
Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

From:
[redacted]

29th May 2015

Re: Airports Commission Air Quality Assessment
https://www.gov.uk/government/consultations/airports-commission-air-quality-assessment

PROCESS

UK Supreme Court ruling:

The Government should have made clear that the work of the Airports Commission (AC) should be put on hold following the ruling of the UK Supreme Court on air pollution on 29th April (https://www.supremecourt.uk/cases/uksc-2012-0179.html).

The government must now come up with a new national Air Quality Strategy (AQS) by the end of the year in order to comply with EU limit values, which should have been met by 2010, in the shortest possible time – and to this end policy and decisions on pollution generating development must be re-evaluated.

The current national Air Quality Strategy was ordered quashed by the ruling, but is still referred to in the AC air quality assessment (at 2.2.4) as if it was still relevant.

Indeed with the new AQS required the whole basis of this consultation is not relevant, and at minimum would have to be re-done (eg the projected Do Minimum levels will be different). Results could be quite different eg it could be the case that with lower DM levels a new runway could take levels over an EU limit when they would then have been brought below them.

Further the date of 2030 for assessment (stated as being chosen for being worst case) could well change ("Do-Minimum and With Scheme assessments have been carried out for 2030 based upon the Airport Commission's demand model that results in the greatest likely air quality impact consistent with the Promoters' preferred business model" from 3.5)

This AC air quality assessment consultation should be retracted.

Lack of assessments:

There has been no SEA done, also no HIA, and no Equalities Impact Assessment, as we understand it. (https://www.gov.uk/government/collections/additional-airport-capacity-consultation-supporting-documents)

The latter for instance is of crucial importance in relation to air pollution. The most deprived 10% of areas in England are subject to 41% higher concentrations of nitrogen dioxide from transport and industry than the average (and since the most deprived are also most likely to be ethnically diverse, it is BME citizens who are likely to be disproportionately affected). Indeed the average black-British African person in the UK is exposed to 28% higher levels of the pollutant PM10 than the average urban white person (both figures from the Healthy Air Campaign: http://healthyair.org.uk/am-i-at-risk/)

AC air quality assessment consultation:

The procedure for the AC air quality assessment consultation has been unacceptable – it has been a very short consultation, exacerbated by having no prior notice given, and compounded by a further document being produced 8 days into the consultation (again without notice), which as well as being unclear eg 2 sets of a) to e) without explanation, revealed an important error in the original documentation (in the 2nd c) paragraph). At minimum the consultation must be extended to allow the time required from the release on 19th May of the latest document with the corrected data.

CONTENT

Notwithstanding the above, we make the following brief comments:

We consider that none of the shortlisted options are acceptable on air pollution grounds, even on the basis of information in the AC consultation.
They would all add to pollution which is not acceptable under policy or law given the UK's situation in relation to air quality, and the 2 Heathrow schemes would be set to add to a breach and delay compliance (and mitigation is uncertain, and the measures should be done anyway).

EU limit values:

We refer you to our joint policy tests document:
http://www.aef.org.uk/2014/09/29/environmental-policy-proposals-for-airport-expansion/
and to the letter of clarification given to Clean Air in London:
http://cleanair.london/legal/major-victory-for-clientearth-enforcing-nitrogen-dioxide-laws/attachment/cal-304-letter-of-clarification-from-the-commission-190214_redacted/#sthash.VA2bB7hw.dpuf

The EU Directive limits are absolute and must be met irrespective of cost.

First it is clear that a breach must not be caused.

Further, air already failing legal limits cannot be worsened or compliance delayed.

Indeed, having failed to meet EU legal limits on NO2 by the dates required, air quality must now be brought within limits in the shortest time possible.

This means that in all relevant areas not only can air pollution not be worsened, but that all possible ways to cut current and projected pollution must be taken ie measures referred to as mitigation for the adding of pollution must be adopted, but there must be no adding of air pollution ie air quality neutral is not even adequate given the special measures the UK is under.

While it is stated that the added pollution would be set to delay compliance for both Heathrow schemes, even if (eg with mitigation) elsewhere in the zone would have higher levels it would not be acceptable to add to pollution under such cover - as for instance Marylebone Road could be made traffic-free leading to compliance being delayed by a Heathrow scheme.

Thirdly the EU Directive is also clear about the non-deterioration principle.
For areas under EU limits air pollution cannot be worsened. It is clear that the requirement to "maintain the levels of those pollutants below the limit values and shall endeavour to preserve the best ambient air quality, compatible with sustainable development" is not compatible with deliberately planning to not preserve air that is under limits, but to make it worse.

And on sustainable development, it is clear that living within environmental limits is imperative
"The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly." (from the box on page 2 of the NPPF https://www.gov.uk/government/publications/national-planning-policy-framework--2)
Policy and proposals must be those where a sustainable economy is achieved while building a just society and living within the planet's environmental limits.

Policy:

This also requires that pollution is not worsened.

The stated objective for the aviation Air Quality Appraisal Module is *"to improve air quality consistent with EU standards and local planning policy requirements."*

The consultation document refers to the NPPF: One of the twelve core planning principles notes that planning should *"contribute to…reducing pollution"* (2.2.5).

The NPPF states that: *"Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants,"*

The consultation document refers to the NN NPS (in 2.2.6) stating:
"The Secretary of State must give air quality considerations substantial weight where, after taking into account mitigation, a project would lead to a significant air quality impact in relation to EIA and/or where they lead to a deterioration in air quality in a zone/agglomeration" (Para 5.12

The NN NPS is in our view not consistent with EU law in referring to 'significant' air quality impact, (and in not also including in reasons for the Secretary of State to refuse consent when air currently meeting limits would lead to a deterioration.

Further areas for concern:

There are several ways in which pollution and the contribution of one of the schemes might be more than stated.

The consultation states (in 3.5) "Do-Minimum and With Scheme assessments have been carried out for 2030 based upon the Airport Commission's demand model that results in the greatest likely air quality impact consistent with the Promoters' preferred business model. This means that the assessment is based on Carbon Traded Global Growth (CT GG) for Heathrow NWR and Heathrow ENR, and the Carbon Traded Low Cost is King (CT LCK) scenario for Gatwick 2R. The scenarios considered in this assessment are set out in Table 3.3 below."

The year of 2030 chosen could very well not be the most critical – especially considering that none of the options would be at full capacity as we understand it.
NB though appreciated that pollution is calculated under carbon traded scenarios, we consider this an unacceptable scenario, ie rather than carbon capped scenario.

It is not relevant or acceptable to eg only refer to 'significant' changes or only consider 1,000 or 5% increases in AADT traffic (Table 3.2) in the wider study area when any increase in concentration is important, or to restrict detailed work to only 2km study area.

We understand also that population and jobs growth and consequent extra traffic has not been fully accounted for

For Gatwick it is stated that the A23 would be relocated to the east, and it is to the south east where the worst air pollution, and biggest change to air quality is projected ie the new road alignment with increased traffic could further add to pollution and indeed cause a breach of limit values.

Reference is made to how emissions could be lower with the introduction of Euro 6c (but how there could be more primary-NO2 which could increase concentrations), but it is not clear whether accounting for real world pollution is made for Euro 6a/b which are not based on real-world testing ie could not those emissions be higher than expected.

The same principle on meeting NEC requirements applies as for EU limit values – that adding to the pollution burden could lead to failure to comply if stronger action is taken elsewhere.

It is also not acceptable that a scheme would cause any new exceedence of the Critical Level as regards habitats.

ENDS