



STRATEGIC AVIATION SPECIAL INTEREST GROUP
of the Local Government Association

ITEM 4: NATIONAL AVIATION POLICY UPDATE

Summary

This report provides updates on a range of current issues relevant to national aviation policy:

- the **Planning Bill** (pg.2) that is currently in Lords Committee stage, with the briefing note provided by SASIG at **Annex A** (pg.11);
- the **Climate Change Bill** (pg.2) and the work of the Climate Change Committee;
- the **European emissions trading scheme (EU ETS)** (pg.3) in terms of deliberations over the inclusion of international aviation;
- **airspace management** issues such as a recent computer failure, an update on NATS' current airspace change proposal, and reference to the Transport Select Committee's 'Inquiry into the Use of Airspace' (covered in detail at Item 7 on this agenda);
- a summary of a Westminster debate on **Aviation Duty** (pg.5), and the expected timescale for a decision on the scheme;
- a brief **industry round-up** (pg.6) detailing recent airline failures and fluctuations in flight numbers;
- **airport developments** (pg.7) at Birmingham, Stansted, Coventry, Heathrow, and London City;
- **Regional Spatial Strategies (RSSs)** (pg.8) detailing the latest iterations for the West Midlands, Yorkshire & Humberside, the North West; and the South West.
- the **Sub-National Review (SNR)** (pg.9), referring to the Local Government Association (LGA) having struck an agreement with the RDAs that regional leader's forums should be given a veto if a joint regional strategy could not be arrived at.

Recommendation

That the report be noted.

Public Bills

Planning Bill

- 1 Attached at **Annex A** (pg.11) is the briefing note circulated by SASIG to Peers, as debates on the Planning Bill have been taking place in Lords Committee since Parliament returned on 6 October 2008.
- 2 The main message SASIG sought to convey was the importance of the Bill providing for public scrutiny, and for Local Authorities to be able to properly represent their communities in matters of crucial environmental, social and economic importance.
- 3 SASIG was also eager to secure support for primary legislation being the route for broadening the remit of what constitutes a Nationally Significant Infrastructure Project (NSIP), and removal of the requirement that National Policy Statements (NPSs) be as locationally specific as possible.
- 4 Finally, SASIG called for the Independent Planning Commission's (IPC's) role to be that of an independent advisor to the Secretary of State, with the Secretary of State taking the final decision on Nationally Significant Infrastructure Projects (NSIPs).
- 5 The Bill is currently being considered in the Lords, with the Report stages concluding on 11 November. Its third reading and final consideration in the Commons has not yet been programmed, but is likely to be in mid-November. The Bill's return to the Commons is an important point for the SASIG membership to have lobbied their local MPs.

Climate Change Bill

- 6 This Bill will give statutory force to the Government's targets for cutting CO₂ emissions by 60% by 2050 and 26-32% by 2020, against a 1990 baseline. The Bill will introduce five-year carbon budgets, which will require the Government to set, in secondary legislation, binding limits on carbon dioxide emissions, beginning with the period 2008-12. Emissions reductions purchased overseas may be counted towards the UK's targets, consistent with the UK's international obligations. However, Ministers rejected Conservative calls for mandatory annual reductions, branding them inflexible.
- 7 The Bill also allows for the establishment of a Climate Change Committee (CCC) to work with the Government to reduce emissions over time and set out improved monitoring and reporting arrangements. The CCC will advise on (i) the level of carbon budgets, (ii) emissions reductions needed from sectors of the economy covered by trading schemes, and (iii) the appropriate balance between domestic action and international trading in carbon allowances. Every five years, the Committee's report will contain an explicit review of the UK's performance over the last budget period, and the implications of this for meeting future targets and budgets.
- 8 The Committee has already been formed, before the Bill has been passed, and recently released a statement advising the Government to adopt a target to reduce the UK's greenhouse gas emissions by at least 80% by 2050. The target should apply on average across all sectors of the UK economy, and would be achieved at an affordable cost of between 1-2 % of GDP in 2050.
- 9 Importantly, the Committee also advised that the UK's climate change strategy, and the 80% target, should include international aviation and shipping. This was initially taken as a major 'win' by many environmental groups, however, further examination of the Committee's report found that due to a lack of international agreement over how emissions from these sources should be reported, the Committee had suggested that they should be left out of the five-yearly budgets, with emissions from aviation and shipping being monitored and reported on separately.

- 10 The Committee also identified the practical difficulties of bringing international aviation and shipping within the UK national budget system. If the aviation sector does not achieve 80% reductions, then other sectors will need to cut their emissions by more than 80% to make up the shortfall.
- 11 At the same time, the European Union Committee of the Regions rapporteur for the EU emissions trading scheme (ETS), Piero Marrazzo, expressed concern that the stringent targets due to be applied to those sectors used universally to make up for the shortfalls in other sectors, such as energy generation, could end up penalising the poorest citizens who use those services.
- 12 The Committee's first report, due on 1 December 2008, will include a full scientific and economic analysis of its recommendations on the 2050 target, and will advise on the level of the UK's first three carbon budgets.
- 13 At the end of October, a group of 56 rebel Labour backbench MPs signed Amendment 69, tabled by Nigel Griffiths, which seeks to include the emissions of greenhouse gases from international aviation or international shipping in national carbon budgets. This group of rebel MPs, together with opposition MPs, would be enough to overturn the Government's majority on this issue. 74 Labour MPs signed an Early Day Motion in mid-October, also tabled by Mr Griffiths, which welcomed Lord Turner's further statement that carbon targets should include all emissions, including aviation and shipping; and urged all parties to support amendments to incorporate these changes in the Climate Change Bill.

European Union emissions trading scheme (EU ETS)

- 14 In an announcement on 8 October 2008, the new Transport Secretary, Geoff Hoon, praised the EU's directive on the inclusion of aviation in the EU emissions trading scheme (ETS), and gave UK support to the conclusion. On 9 October 2008, the EU Committee of the Regions (CoR) urged the European Commission to speed up the approval of legislation for inclusion of the air and maritime transport sectors.
- 15 The CoR also advised Member States to allocate at least 30% of the income gained through ETS auctions to local and regional authorities' promotion of renewable energies and energy efficiency, in an effort to help the Community meet 20% of energy needs from renewable sources and increase energy efficiency by 20% by 2020. The CoR also recommended reviewing the effectiveness of the directive six months after its entry into force. This should include proposals on preventing the transfer of CO₂ emissions from EU energy-intensive sectors to much cheaper "pollution havens" abroad, that is, third countries with less stringent environmental standards.
- 16 As part of their investigation into the Revision of the EU ETS, the Lords European Union Sub-Committee on Environment and Agriculture heard from Dr Terry Barker, the Chairman of the Cambridge Centre on Climate Change Mitigation Research. The Chair and Labour peer Lord Sewel asked what circumstances and conditions would need to be in place for an emissions trading scheme to be successful. Dr Barker stated that all stakeholders needed to act ethically, but this was unlikely, as different nations were competing within the ETS and did not focus on long-term outcomes.
- 17 The ETS had been subject to considerable lobbying by various organisations and industry groups as there was a large amount of money at stake. Lord Sewel asked what the main dangers were with building concessions into the ETS. Dr Barker replied that any concession would weaken the effectiveness of the scheme. He also called for more transparency with regards to the subsidies given out under the ETS. The complexities of the ETS meant there were opportunities for concessions and

"perversions" to be inbuilt. The systems of auctions and allowances were too rigid and this was why Member States have been asking for special provisions.

- 18 Dr Barker stressed that the target to keep the change in world temperatures below 2°C would not be met under the current cap and that the UK Government's plan to reduce carbon dioxide emissions by 50% would not be met either. The target should be set at 40%, or possibly as high as 50% by 2020, particularly in light of the global economic downturn. He stressed that because the energy markets were complicated and volatile they needed a strong ETS to offset carbon prices. To have an impact the price of carbon would need to be around €80-120 per tonne, but it was unlikely to that high. Carbon capture and storage would only happen if carbon was at a high price.

Airspace management

Air traffic control computer failure

- 19 On Thursday 25 September, at about 5pm, the Control Flow Management Unit at Eurocontrol in Brussels reported a computer failure at NATS' London Area Control Centre (LACC) at Swanwick. This unit covers the whole of the south-east of England. All departures from Luton were suspended, and Heathrow reported disruption on all flights, reducing departure times to one movement every five minutes instead of every 90 seconds.
- 20 Arrivals into south-east airports were delayed, and some short-haul destinations cancelled, with overall reductions in the flow of aircraft throughout the region. The problem stemmed from a glitch with computers dealing with information about higher-altitude flights, and meant that whilst air traffic controllers could see where planes were, they could not identify them. The LACC could still operate, but was forced to restrict departures due to the additional workload.
- 21 The failure ran from 3.55pm to 7.15pm, affecting any planes flying above 25,000ft. This led to compression of flights already in the air, and entering the airspace, into the sub 25,000ft level, meaning flights due to pass through the affected area had to re-route around this airspace, or face congestion. To avoid congestion, more flights were grounded in other countries, and most congestion and delay issues had been resolved by the following afternoon.

NATS airspace change proposals

- 22 The most extensive UK airspace change proposal to date was put out to consultation by NATS – the UK's airspace management provider – earlier this year.
- 23 NATS have now published their Initial Feedback report¹. It indicated that 86% of the respondees (14,647 public, 578 representative groups) opposed the proposals, mostly on the grounds of increases in rural noise levels, but also due to flaws in the consultation process. NATS have recently indicated that further design options and suggestions are being considered in areas including (but not limited to):
- Luton departures in the vicinity of the Chilterns, Aylesbury Vale, Caddington/Slip End, and Stevenage;
 - Heathrow departures in the vicinity of Rickmansworth/Abbots Langley and Hounslow;
 - Stansted departures in the vicinity of Bishops Stortford and Saffron Walden;
 - London City departures over north London; and
 - The location of, and procedures for, arrival routes/holds for Luton, Stansted and London City.

¹ http://www.consultation.nats.co.uk/downloads/13/download_consultation_document.html.

- 24 If the current work NATS are undertaking leads to significantly different options to those initially proposed, then further consultation will be undertaken. Due to these developments, NATS were no longer in a position to submit an Airspace Change Proposal to the CAA by the end of September, therefore changes are unlikely to be implemented before March 2009 as originally envisaged. NATS reiterated their commitment to full consideration and evaluation of all feedback received.

Transport Select Committee 'Inquiry into the Use of Airspace'

- 25 On 6 October 2008, SASIG submitted evidence to the Transport Select Committee 'Inquiry into the Use of Airspace'. That submission is Item 7 on this agenda.

Aviation Duty

- 26 On 8 October 2008, Graham Stringer MP (Labour, Manchester - Blackley) led an adjournment debate on the proposed Aviation Duty. He placed himself in direct opposition to the tax, on the basis that the use of MTOW (Maximum Take Off Weight) as a measure would provide a perverse incentive for aircraft operators to avoid modern planes with lower comparative emissions, which happen to be heavier. He cited the impact on the air freight industry, potential subsequent losses to the North West's manufacturing industry, disadvantages to regional airports with lower load factors, and the harsh economic conditions under which airlines are currently operating as reasons to avoid the tax. Mr Stringer also pointed out the imbalanced impact the tax could have on passengers using regional airports; as they are more likely to fly to internal hubs before embarking on long-haul flights they would be liable to pay the tax twice. He also suggested that overall losses to Gross Domestic Product could be caused by the tax, making it a loss-making venture. Mr Stringer used DfT figures to demonstrate that aviation already overpays its environmental costs to the country by £0.4 billion.
- 27 Other MPs - Mark Pritchard (Conservative, The Wrekin) and David Wilshire, (Conservative, Spelthorne) suggested the tax would displace air travel to continental hubs, and that only international solutions should be used to tackle the environmental costs of aviation.
- 28 Opponents of the tax also remarked on the increased administrative burden of having airports administer tax collection, rather than airlines, who collect the current duty. They also restated that aviation has a relatively small environmental impact, and challenged the Minister on the legality of the tax, which could be viewed as in breaching the Chicago convention and the Open Skies agreement between the European Union and the United States of America.
- 29 David Taylor (Labour/Co-Op, North-West Leicestershire) - an MP with East Midlands Airport, the largest freight airport in the country by weight, in his constituency – countered Mr Stringer's position. He pointed out that since the Chicago convention, aviation has benefited from generous largesse in being free of VAT and fuel tax, following that the suggestion that aviation is on a level runway with other forms of transport, tax-wise, was ridiculous. He welcomed the Government's attempt to balance a small proportion of aviation's environmental impact with the contribution that would ultimately be gained from the duty, and demanded evidential proof from critics of the tax about projected job losses, dismissing many claims about regional effects as 'scare-mongering'.
- 30 Mark Todd MP (Labour, South Derbyshire) spoke of his support for the principle of fiscal measures to equalise burdens between different carriers and payloads, particularly the taxation of freight aircraft, which are often older and less efficient than passenger aircraft. A resident of a constituency adjacent to East Midlands Airport, he mentioned that many carriers using this facility were modernising their fleets rather too

slowly, and the duty could, if applied properly, incentivise that process. He called for the emphasis to be placed on the efficient use of aircraft capacity, the carbon impact of the flight itself, and to incentivise fleet modernisation.

- 31 This gave rise to a contribution from John Leech MP (Liberal Democrat, Manchester - Withington) who suggested the current air passenger duty was unsustainable as it provides no incentive for airlines to invest in more efficient and less environmentally damaging aircraft, nor does it incentivise against the use of half-empty planes. He highlighted that since 1990, the proportion of total UK carbon emissions coming from aviation has more than doubled from 2.5% to 5.8%, and since the Government gave a green light to airport expansion in the Aviation White Paper, emissions are due to rise by up to 83% on 2002 levels by 2020. He called for bolder steps to be taken to tackle this, including a cap on airport capacity in the south-east, including no expansion of Heathrow or Stansted; the inclusion of aviation in the UK emissions target in the Climate Change Bill; an additional per passenger climate change charge on domestic, non-lifeline flights in the UK; and the development of an internationally-agreed aviation fuel duty. At the same time, the Government should encourage domestic passengers away from flights and onto the railways, with new high-speed rail links to the north and beyond.
- 32 The Liberal Democrats supported basing the new aviation duty on the carbon emissions produced by the aircraft rather than its take-off weight. That would encourage aircraft manufacturers not only to build lighter planes, but also to invest in lower-emission engine technology. On the need for an international agreement, the Liberal Democrat spokesperson encouraged other European countries to follow the UK's lead. They also supported the introduction of more distance bands to ensure that a flight's band better represented the distance travelled and its emissions - which would help to protect lifeline flights from areas like the Highlands where no real alternatives to air travel exist.
- 33 Justine Greening (Conservative, Putney) challenged the use of maximum take-off weight as the basis for the duty, suggesting that the data on emissions from aircraft was good enough to use carbon dioxide or nitrogen oxide emissions. She pointed to the work on the environmental impact of the existing and future fleet in the Heathrow expansion analysis as evidence of the availability of such information. She also requested a timeline for implementation of the tax, and the levels of rates to be set.
- 34 The Exchequer Secretary to the Treasury, Angela Eagle, recognised the contribution that aviation plays in both regional and national economies, and reiterated that the Government are committed to supporting the sustainable growth of the aviation industry. She said there had been a dearth of evidence from those opposed to the tax on the feared impacts on jobs and regional economies. On the modelling of the tax, she said that maximum take-off weight was probably the best proxy available under current circumstances, citing potential breaches of the 1944 Chicago Convention on International Civil Aviation as the block. Charging for emissions en route has already been deemed illegal in the European courts, so it is dubious in the extreme whether tax could be charged purely on emissions.
- 35 The SASIG office will update the group as deliberations on the duty continue.

Industry round-up

- 36 Over the past 12 months, 30 airlines have gone bankrupt, including Silverjet, XL, EOS, and several American airlines. Major firms such as BA are initiating cuts at middle management level, Alitalia is experiencing striking workers and Government interventions, and even those airlines with low-cost business models such as Ryanair are constraining themselves (with staff forced to take unpaid leave during the winter).

These figures have been roundly quoted as an indicator that the industry is not robust enough at this point to handle green initiatives such as Aviation Duty. However, the same consideration has not been applied as to whether the industry can sustain the projected levels of growth set out in the White Paper in the current economic climate.

- 37 Over peak holiday season in the UK, the number of flights through British airspace fell for the first time since the post-September 11 downturn, as high fuel costs forced airlines to cut back services. NATS said it dealt with 1,401 fewer flights in July compared with the same month last year. The fall in flights came during the peak summer season. NATS' two largest customers - Heathrow and Gatwick - broke monthly records, but the overall trend was negative. The number of transatlantic flights fell by 457, while the number of domestic flights fell by 201. Other flights, including services to Europe, Asia and the Middle East, dropped by more than 1,200.

Airport developments

Birmingham Airport runway consultation re-opens

- 38 On 8 October 2008, Solihull Metropolitan Borough Council announced that a public consultation on the proposal to extend the runway at Birmingham International Airport (BIA) has been reopened for another 21 days. The airport operator has applied for planning permission to construct a 400-metre extension to the main runway. The Council is expected to determine the planning application before the end of the year.
- 39 If approved, the £120 million extension would increase the range of long-haul flights available from Birmingham, and could be operational by 2012.
(<http://www.solihull.gov.uk/planningservices/15089.htm>)

Stansted 'Generation 1' given approval

- 40 At Stansted, there have been significant developments to the Generation 1 (G1) application on capacity. On 9 October 2008, the new Transport Secretary, Geoff Hoon, granted permission for an increase in flights from 241,000 to 264,000 and to raise the number of passengers from 25 million to 35 million per annum. The Government has had sight of the Planning Inspector's report since January 2008. Permission was originally refused by Uttlesford District Council in November 2006 on grounds of noise and environmental concerns. The Government overruled the council after an appeal by the airport operator BAA.
- 41 Consultation on the applications for a second runway at Stansted (G2) closed on 26 September 2008. The G2 Planning Inquiry will open on 15 April 2009.
(<http://www.planning-inspectorate.gov.uk/stanstedg2inquiry/documents.html>)

Coventry Airport plans rejected

- 42 The High Court has upheld the Secretary of State's decision to reject plans for the expansion of capacity at West Midlands International Airport at Coventry. After a joint Inquiry, the Secretaries of State concluded that, although there were significant economic benefits flowing from the proposal, there would still be noise harm to residential property, particularly at unsocial hours, despite a mitigation/compensation package. There would also be poor public transport accessibility. The court ruled that the Ministerial decision had taken account of all the essentials and had represented "a proper planning balance". This decision was taken within the normal planning system, and was not part of the Air Transport White Paper 2003 proposed infrastructure.

Heathrow Equalities Impact Assessment launched

- 43 The Department for Transport (DfT) has begun a consultation on how airport development at Heathrow might affect different demographic groups living near the airport. The Equalities Impact Assessment (EqIA) forms part of the Impact

Assessment underpinning the 'Adding Capacity at Heathrow Airport' consultation and seeks to establish the impact of airport development on different groups in terms of race, disability, age and social deprivation.

- 44 Aviation Minister, Jim Fitzpatrick, said: "[The EqlA] will look specifically at whether there are groups of individuals who would feel the effects of development more keenly, either positively or negatively, as a result of their particular sensitivity to the impacts."
- 45 Some wards around Heathrow have Black, Asian and Minority Ethnic (BAME) populations of 63% or above, compared with the London average of 40%, according to figures from the 2001 Census. Children aged 0-4 and 5-16 are also comparatively over-represented in the area. The original consultation did not provide enough data on the impacts of the proposals on these, and other groups.
- 46 It has been noted that the expansion options given in the EqlA document differ from those set out in the 'Adding Capacity at Heathrow Airport' consultation document. The EqlA consultation closes on 9 November 2008, with final Ministerial decisions on Heathrow expected later this year. (<http://www.dft.gov.uk/heathrowconsultation>)

London City Airport expansion proposals approved

- 47 The expansion of London City Airport has been approved, despite some objections, and various deferrals in the planning process. Newham Council decided on 8 October 2008 to allow the airport to increase its movements from 80,000 to 120,000 per year, after receiving support from the proposals from London Mayor, Boris Johnson.
- 48 London City made its application to expand in response to the Government's Aviation White Paper, which required airport operators to maximise use of existing runways. Raising the number of flights will leave the airport on course to handle 3.9m passengers by 2010. The airport operator is working on a further planning application to raise capacity to 8m passengers a year.

Regional Spatial Strategies (RSS)

- 49 The consultation period for the **West Midlands RSS** (WMRSS) Phase Two Revision Draft has been extended to 8 December 2008 by the Assembly, following a study, commissioned by the Government Office for the West Midlands (GOWM), into options for delivering higher housing numbers. GOWM will make the study available via <http://www.go-wm.gov.uk/> as additional evidence for consultees.
- 50 The **Yorkshire and Humberside RSS** final Project Plan for the 2009 update has been submitted for approval to the Government Office for Yorkshire and Humber and is now available on their website: <http://www.yhassembly.gov.uk>. Work on preparing Spatial Options is underway, and following approval from the Regional Planning Board on 21 October 2008, Yorkshire and Humberside will be consulting on the Spatial Options from 3 November 2008 to 2 January 2009.
- 51 The **North West of England RSS**, published on 30 September 2008, reflects national policy as set out in the Air Transport White Paper 2003 for Manchester, Liverpool John Lennon and Blackpool airports, up to 2021. For Carlisle airport, proposals for development should be considered through the local planning process; if proposals exceed 20,000 air transport movements annually by 2030 the airport should consider developing an Airport Master Plan.
- 52 Manchester Airport serves some 21 million passengers each year and more intensive use of the two runways could see this increase to 50 million passengers per annum. Liverpool John Lennon Airport is the North West's second airport and has seen rapid growth in recent years with passenger numbers exceeding 4 million annually.

Blackpool Airport has recently experienced considerable growth in scheduled routes and now caters for around 300,000 passengers per year.

- 53 As demand for commercial air transport grows, general aviation users may find that access to the larger airports becomes increasingly restricted and hence they are forced to look to smaller airfields to provide facilities. The NW RSS calls for Local Authorities to recognise in their plans and strategies the contribution general aviation can make to the regional and local economies.
- 54 The Plan takes account of two rounds of public consultation and an Examination in Public. Updates to the Sustainability Appraisal/Strategic Environmental Assessment and Habitat Regulations Assessment were made, confirming that the revised Plan should help deliver sustainable development.
(http://www.nwrpb.org.uk/documents/?page_id=4&category_id=275)
- 55 The **South West Regional Spatial Strategy** was recently the subject of a parliamentary debate, called by Liberal Democrat MP Steve Webb (Northavon). The debate attracted significant attendance from regional MPs and the public. Mr Webb dismissed the RSS as being 'incredibly top-down', and not regionally specific enough. Online consultation had been subject to understaffing, poor accessibility, and technical difficulties. Mr Webb considered that the concept of sustainability had been abused, with his region marked for sizeable housing developments where no supporting local transport, health, employment or education infrastructure had been proposed. The requirement for brownfield sites to be used in preference to greenfield sites had also been overlooked, with infringements of greenbelt land at 6 out of 7 proposed development sites. There was cross-party consensus on these views. Consultation on the SW RSS ended on 24 October 2008.
- 56 The Conservative spokesperson, Jacqui Lait, warned that under a Conservative government, the RSS would be abolished. Undersecretary of State for Communities and Local Government, Mr Iain Wright, denied that the RSS had not been subject to parliamentary scrutiny. He was limited in his response by the quasi-judicial role of the Secretary of State in the matter, but suggested that the developments suggested in the RSS were required due to the shortage of affordable housing in the area. A sequential approach to allocating greenfield and brownfield development would be too strict to meet this demand, though 75 per cent of all new development is currently on brownfield sites.
- 57 The **East Midlands RSS** has also been challenged on the levels of new housing envisaged, with representations going to the Government Office of the East Midlands.

58

Sub-National Review

- 59 The Department for Communities and Local Government (DCLG) and Department for Business, Enterprise and Regulatory Reform (BERR) ran a joint consultation between March and June this year on the Sub-National Review (SNR) of Economic Development and Regeneration.
- 60 The SNR sought views on reforms that, according to DCLG and BERR, would:
- streamline the regional tier, introducing integrated strategies and giving regional development agencies (RDAs) lead responsibility for regional planning;
 - strengthen the local authority role in economic development, including a new statutory duty to assess local economic conditions; and
 - support collaboration by local authorities across economic areas.

- 61 The review proposes making Regional Development Agencies (RDAs) the regional planning body (RPB). There are some concerns that the significant statutory powers proposed for RDAs could strip responsibility away from Local Authorities, making the establishment and implementation of Local Development Frameworks and Regional Spatial Strategies problematic.
- 62 There are also concerns that the emphasis placed on economic development within the SNR could lead to an undermining of the value of environmentally sustainable development. Social and environmental factors should be given equal weight in regional planning processes, and passing responsibility for this to a body with a primarily economic remit is unlikely to assist this objective.

Conclusions

- 63 The aviation industry has entered a more unsettled era, with decisions being made over the summer to cut winter schedules, a number of airlines folding, and then the subsequent global economic disruption adding further uncertainty, including whether the levels of development envisaged by the 2003 White Paper and several Regional Spatial Strategies can be reached. It remains to be seen what effect the downturn has on overall operations in the longer-term.
- 64 In the meantime, legislation continues to be developed, both domestically and internationally. Despite calls from a number of quarters for aviation to be brought under the same climate change regime as other sectors, to date no binding targets are being applied to the industry. This is mirrored at EU level, where the Emissions Trading Scheme will not apply to the aviation industry until 2012, and then with a high cap, and high levels of free permits which are unlikely to achieve emissions reductions.
- 65 In addition, Government's intentions for the planning system aim to strengthen the Aviation White Paper proposals through production of National Policy Statements, with a non-elected Infrastructure Planning Commission making decisions on Nationally Significant Infrastructure Projects. SASIG has concerns about the levels of local representation and engagement that will be possible under the proposed regime.

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STRATEGIC AVIATION SPECIAL INTEREST GROUP
of the Local Government Association

This briefing note was circulated to members of the House of Lords on 3 October 2008, to inform debates as the Bill progressed through Lords Committee.

**SASIG BRIEFING PAPER FOR MPS AND LORDS ON
THE PLANNING BILL
(DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT)**

Introduction

- 1 The Strategic Aviation Special Interest Group (SASIG) is part of the Local Government Association (LGA) with a membership of 54 Local Authorities representing 14 million people, or approximately a quarter of the UK population.
- 2 SASIG seeks to ensure that any planning strategy for the UK is implemented through regional planning guidance and other planning processes so as to reconcile economic, social and environmental issues in a sustainable way. SASIG wishes to assist in the development of a planning regime that drives environmental improvements within the UK.
- 3 The Planning Bill followed the May 2007 Planning White Paper 'Planning for a Sustainable Future'. SASIG is particularly interested in the effect of the Bill on aviation related proposals but the concerns expressed here apply to all Nationally Significant Infrastructure Projects (NSIPs). This report sets out an analysis of the key issues of the Bill, and SASIG's call for support from MPS and Lords on those issues with

requested actions highlighted in boxes.

- 4 Unless MPs and Lords take these actions, the ability of Local Authorities to represent their communities in planning decisions, and the democratic accountability of the whole planning system, could come under threat.

The power of Local Authorities to properly represent their communities in matters of crucial environmental, social and economic importance must not be eroded by this Bill.

"Planning shapes the places where people live and work and the country we live in. Good planning ensures we get the right development in the right place and at the right time. It makes a positive difference to people's lives and helps to deliver homes, jobs and better opportunities for all whilst protecting and enhancing the natural and historic environment and conserving the countryside and open spaces that are vital resources for everyone."

Source: The Government's Objectives for the Planning System, Planning Policy Statement 1 (PPS1), 'Delivering Sustainable Development'.

The Planning Bill

- 4 The Planning Bill has already undergone many revisions. Some elements of the Bill, for example National Policy Statements (NPS), should offer useful strategic guidance to Local Authorities, as well as filling several policy gaps in the Aviation White Paper - for example, the absence of an overarching Airspace Master Plan.
- 5 The aviation industry has historically seen overall growth, albeit with some checks to that growth, the infrastructure for which has been provided in a piecemeal manner, with successive planning conditions being overturned.
- 6 If the Planning Bill leads to a long-term strategy for managing the aviation industry to best meet the economic, environmental and social needs of the UK and local areas alike, then the legislation is more likely to win the support of local government leaders.
- 7 The model currently used by the Advisory Team for Large Applications (ATLAS², an advisory body with a non-inquisitorial role) is the Planning Performance Agreement (PPA). This is a planning project management tool used by both the local planning authority (LPA) and the applicant to take forward Nationally Significant planning proposals. PPAs are about improving the quality, not the speed, of the decision-making process, with collaboration being the key characteristic.
- 8 The emphasis upon quality rather than speed exemplified by PPAs is lacking in the Bill as it stands. If the Government are serious about radically overhauling and improving the quality of Nationally Significant infrastructure planning in the UK, then the longevity, sustainability and public acceptance of the planning procedure should be of primary importance.
- 9 The time savings afforded by the Bill in its current iteration do not tackle the elements of the planning procedure where delays are most prevalent, and strip away crucial elements of public consultation (such as the right to contest decisions at a public inquiry) enshrined in planning law since the 1947 Town and Country Planning Act. Major revisions to the proposed Bill are required to uphold the principles of Planning Policy Statement 1 (PPS 1) 'Delivering Sustainable Development'.
- 10 The planning system recently underwent a major overhaul in 2005 with the Town and Country Planning Major Infrastructure Planning rules. This system has not yet been fully tested, and a total rewriting of it is both premature and unnecessary. Improvements should be made to the existing system, which already functions well, with the elements that currently cause problems (such as the submission of inappropriate applications by developers as seen at the Heathrow Terminal Five inquiry) being revised by enhancing the role of advisory bodies such as ATLAS (see para. 7), and more flexible, collaborative timetabling for the decision-making process.

² Advisory Team for Large Applications (ATLAS) is an advisory body with a non-inquisitorial role provided by English Partnerships as part of the Planning Advisory Service (<http://www.atlasplanning.com/page/index.cfm>; <http://www.pas.gov.uk/pas/core/page.do?pagelid=10387>)

- 11 The timetable for the Bill (including the completed stages) is:
- Introduced to the Commons by Communities Secretary Hazel Blears – 27 November 2007;
 - Commons Second Reading – 10 December 2007;
 - Commons Committee – 8 January to 5 February 2008;
 - Commons Report Stage – 2 June to 25 June 2008;
 - Commons Third Reading – 25 June 2008;
 - Consideration in the Lords – 26 June 2008;
 - Lords Second Reading – 15 July 2008;
 - Lords Committee – 6 October to 23 October 2008;
 - Lords Third Reading and final approval in the Commons - not yet programmed.

National Policy Statements (NPS)

- 12 The Government has expressed its intention to convert existing national policies into National Policy Statements (NPS), subject to adaptations such as examining how one policy integrates with other existing policies, including climate change and social policy considerations. However, in the case of aviation, the conversion of the 2003 Air Transport White Paper (ATWP) is not appropriate for a robust national policy, because no national consultation was undertaken to produce the ATWP; it is based on a collection of regional consultations, written under an entirely different context and to different specifications than an NPS would require.
- 13 SASIG has consistently called for a full review of the ATWP, addressing changing demand levels and putting the needs of the environment and local communities at the heart of the policy-making process. This has been echoed by the Government's own sustainability advisor, the Sustainable Development Commission, which recently released two reports on the contested evidence and incomplete data on which the ATWP is based.
- 14 The Air Transport White Paper 2003 is not a suitable document for conversion to a National Policy Statement (NPS). Considerable revision and comprehensive consultation are imperative to ensure that a sustainable NPS is produced for the UK's aviation industry.
- 15 The requirement in the Planning Bill for the Government to produce a pre-commencement statement of policy before a National Policy Statement (NPS) is written may limit the scope and validity of the NPS. It is essential that full involvement is afforded to stakeholders in the production of NPSs.

MPs and Lords should support amendments to Clauses 5, 9, 10a and 12,
ensuring National Policy Statements (NPSs) are assessed under the
Strategic Environmental Assessment (SEA) and Habitats Directives, with
strong duties promoting sustainable development,
full democratic consultation, climate change impact, and
no pre-commencement statements of policy.

Climate Change

- 16 Environmental considerations are not being afforded the appropriate level of importance in the Planning Bill. For instance, the requirement to consider the climate change implications of Nationally Significant Infrastructure Projects (NSIPs) has been dismissed. The LGA and SASIG are united in supporting explicit reference to impacts on climate change in any National Policy Statement (NPS). The Planning Bill should build on the existing framework of Planning Policy Statement 1 (PPS1) for sustainable, ecologically sound development.
- 17 It is also proposed that NSIPs be exempt from nuisance claims, during and following their construction. Where planning permission is granted to an NSIP under the direction of an NPS, care should be taken that local planning authorities are granted the resources and power to enforce planning controls within their area. Local Planning Authorities must be able to address the local impacts of NSIPs.

MPs and Lords should support amendments to Clause 10a

pressing for the requirement that National Policy Statements (NPS) should include references to the climate change implications of Nationally Significant Infrastructure Projects (NSIPs).

MPs and Lords should support Clause 8

requiring developers, as well as local government bodies, to demonstrate planning for climate change impacts within proposals.

MPs and Lords should support amendments to Clause 151

on legal challenges relating to nuisance claims.

Democratic Accountability

- 18 If the needs of local communities are to be properly represented in the planning process, it is necessary to ensure that any National Policy Statement (NPS) is not only robust and formulated from independent evidence, but also reviewed in a democratic setting, increasing accountability in the planning process.
- 19 For this reason, both Houses should be allowed to debate and vote on any NPS. This will provide an avenue for the critical debate and revision of key policies, and improve public input via democratically accountable channels. This requirement could reduce the possibility of judicial challenges to proposed Nationally Significant Infrastructure Projects (NSIPs) by allowing those affected to debate the issues and inform decisions earlier on in the process.
- 20 The designation of projects as NSIPs should also be limited to projects of genuine national strategic significance, to ensure the Independent Planning Commission's (IPC) workload is manageable, and to employ the experience of Local Authority and public input to the greatest extent possible.

MPs and Lords should support Clause 5

to press for the requirement that National Policy Statements (NPSs) should be scrutinised and voted upon in both Houses.

MPs and Lords should support amendments to Clause 14

so that the remit of what constitutes a Nationally Significant Infrastructure Project (NSIP) cannot be broadened without primary legislation.

MPs and Lords should support only occasional use of Clause 30,

as this allows the Secretary of State to designate any infrastructure project in the UK be scrutinised by the Independent Planning Commission (IPC), even if the project does not meet Nationally Significant Infrastructure Project (NSIP) threshold criteria, which effectively strips power from Local Planning Authorities.

Locationally Specific National Policy Statements (NPSs)

- 21 The Infrastructure Planning Commission (IPC) must have regard to the Local Impact Assessments (LIA) produced by local councils when making decisions. However, the weight of a site-specific National Policy Statement (NPS), defining national needs, and carrying presumptions about future development at certain locations, may outweigh the considerations in such LIAs.
- 22 This may mean that the decisions of the IPC may limit or otherwise inhibit the implementation of the area's Local Development Framework (LDF) or Regional Spatial Strategy (RSS) - both key policy documents with strong evidence bases and democratic accountability through extensive consultation. The current indication that an NPS would supersede these documents, which as the Bill stands would not have the same level of scrutiny and public input as an RSS or LDF, is insupportable.

MPs and Lords should support amendments to Clauses 5, 12 and 14.

These clauses relate to the removal of the requirement that National Policy Statements (NPSs) be as locationally specific as possible.

Where NPSs are locationally specific, scrutiny of local impacts must be integral to the production of the National Policy Statement (NPS), and comparative assessment provided.

The impacts of such NPSs must be comprehensively communicated to those in the locality the NPS applies to.

Community Engagement

- 23 The proposed timescale in the Bill for public consultation on Nationally Significant Infrastructure Proposals (NSIPs) is 28 days. This is insufficient time for adequate public consultation. The timescale should be *at least* that currently provided for public consultation by Government departments – 90 days (12 weeks).

MPs and Lords should support amendments tabled on Clauses 44 and 46

extending the period of consultation from 28 days to 90 days.

- 24 Many of the avenues that currently exist for the public to input into planning decisions have been curtailed within the Bill. Inquiry procedures should protect people's right to be heard and to interrogate experts, and not only through oral evidence, as the Bill suggests, but also through written evidence. This interrogation, whilst increasing the decision time in some cases, could assist better planning decisions, by revealing which aspects of an application are unsound. As the Bill stands, property owners could have their land compulsorily purchased without having a chance to put their case or to test the arguments of those proposing the development.
- 25 The public must also retain the right to input into National Policy Statements (NPSs) through their elected representative. Current provisions that only allow Parliamentary scrutiny, rather than voting, are inadequate.
- 26 The Bill contains a new duty requiring the applicant for a Nationally Significant Infrastructure Project (NSIP) to run the public consultation. Such applicants and potential developers have a clear vested interest in the outcome of the planning process, and as such, giving them responsibility to organise and arbitrate the results of public input will not meet requirements for impartiality and fairness.

- 27 Consultation must be organised by a publicly accountable body using transparent processes. SASIG suggests that the applicant be required to fund the public consultation of their proposal, and a body such as the Planning Inspectorate (PINS) or ATLAS (see para. 7) should determine the level of funding required, then operate the public consultation.

MPs and Lords should support amendments to Clause 101

on the rights of those affected by Nationally Significant Infrastructure Projects (NSIPs) to make written contributions to planning inquiries, and participate in the formation of National Policy Statements (NPSs) through their elected representatives.

The Infrastructure Planning Commission (IPC) should be required to have regard to both oral and written submissions.

Community engagement with planning decisions should be strengthened.

Powers of the Independent Planning Commission (IPC)

- 28 The proposed Independent Planning Commission (IPC) should not have the final say on projects, though their input as independent experts should be carefully evaluated and be a key part of any decision. Final decisions should rest with Ministers, as they are accountable to Parliament.
- 29 The Commission should be an investigative body making recommendations to Ministers, and should not have the power to take decisions in an undemocratic way. The process should, at all times, remain transparent, accessible and accountable to all interested parties, thus reducing the probability of judicial reviews of decisions, and increasing the public legitimacy of Nationally Significant Infrastructure Projects (NSIPs).
- 30 The IPC's remit should not extend to offering significant advice to potential applicants. Instead, advice should come from Local Planning Authorities or ATLAS in order to ensure adequate consideration of local implications.
- 31 Where the IPC operates, it should have duties to incorporate environmentally sustainable development procedures into its work, and have reference to the climate change impacts of any NSIP.

MPs and Lords should support the removal of subsections 6a and b, and support amendments to Clause 109,

making the IPC an investigative body only.

The Independent Planning Commission's (IPC's) role should be that of an independent advisor to the Secretary of State,

and the Secretary of State should take the final decision on Nationally Significant Infrastructure Projects (NSIPs).

To ensure the independence of the IPC the removal of a commissioner should only be on the basis of maladministration.

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