



STATEMENT REGARDING THE SUPREME COURT JUDGMENT ON THE EXPANSION OF HEATHROW AIRPORT

DRAFT

1. I make this statement out of respect for the rule of law, yet conscious that it may result in my prosecution for contempt of court. I have been left with no choice. To remain silent would be to be complicit in concealing from the public that the Government's plans to expand Heathrow Airport were assessed against a threshold known to be dangerous and known to pose intolerable risks to human life.
2. Today the Supreme Court has reversed the ruling of the Court of Appeal. It has ruled that Chris Grayling (Secretary of State for Transport at the relevant time) took proper account of Government policy relating to climate change in approving plans for Heathrow expansion.
3. It is a fact (not contested by the Government or any other party) that Mr Grayling evaluated the climate impacts of Heathrow expansion against the wrong global temperature limit: the historic global temperature limit of 2°C warming, which the UK Government and 196 governments (including China, Iran, Russia and Saudi Arabia) rejected in 2015 as inadequate and dangerous.
4. Mr Grayling failed to disclose this matter either to the public (through the consultation process) or to Parliament. He claimed he had assessed the plans against the Government's "international obligations". It was only through the disclosure process in this litigation that it came to light that Mr Grayling had assessed Heathrow expansion against the discredited, dangerous 2°C limit.
5. The Court of Appeal rightly concluded that by June 2018 (2 ½ years on from the Paris Agreement), the UK Government was committed to the Paris Agreement temperature limit ("well below" 2°C while aiming for 1.5°C), and no longer to the dangerous 2°C limit. It ruled that Mr Grayling's failure to take account of the Paris Temperature limit in assessing Heathrow expansion was unlawful.

6. On the evidence before the Court, the Paris Temperature Limit implies zero CO₂ emissions from aviation by 2050, whereas Heathrow expansion implies around 40million tonnes of CO₂ emissions just from UK aviation by 2050. Had Mr Grayling considered the Paris Temperature Limit it is difficult to see how he could have approved the plans.
7. The Government did not appeal the Court of Appeal's ruling but Heathrow Airport Limited (HAL), the party which stands to benefit commercially from a third runway, did. Lord Anderson, Counsel for HAL, made no attempt to explain or defend Mr Grayling's reliance on the dangerous 2°C limit. Rather he presented to the Court a fictional version of events in which Mr Grayling did not rely upon the 2°C target at all¹.
8. It is a matter of record that Plan B drew the error to the Court's attention during the proceedings. Neither the Court nor Lord Anderson challenged Plan B's correction. It was clear from the Government's own witness statements, and the agreed Statement of Facts and Issues², that Mr Grayling had relied on the dangerous and discredited 2°C limit.
9. The Supreme Court's judgment today is based on Lord Anderson's fictional version of events, in which Mr Grayling assessed Heathrow expansion not against the dangerous, discredited 2°C target, but against the UK's domestic targets. The Court's judgement is 94 pages long. Yet it excludes any reference to the central fact of the case, which is that Mr Grayling assessed Heathrow expansion against the dangerous, discredited global 2°C limit.
10. Plan B has had sight of the draft judgment of the Court. It has drawn the error to the Court in clear and explicit terms. Yet the Court continues to whitewash from the record Mr Grayling's reliance on the 2°C global limit, concealing from the public the fact that plans for Heathrow expansion were approved by the Government on the basis of a threshold known to pose intolerable risks.
11. The effect of the Court's judgement is that it will be lawful for Ministers in the future to assess national infrastructure projects against the dangerous 2°C limit rather than the Paris Agreement limit. The implications of that position could not be more serious and the Court should make its reasoning clear.

¹ See case for HAL, para 16: <https://planb.earth/wp-content/uploads/2020/09/SC-HAL-Case.pdf> ("The Secretary of State followed the CCC's advice in assessing the carbon impact of the scheme in the context of the (then) carbon target in s1(1) and the then existing carbon budgets, which had been set having regard to the 37.5Mt CO₂ planning assumption").

² See para. 7(b): <https://planb.earth/wp-content/uploads/2020/09/SC-SFI-FINAL.pdf>

12. I have been a lawyer for more than a quarter of a century. For much of that time I have served as a legal adviser to various law enforcement agencies. I was a Deputy Director at what was the Serious Organised Crime Agency.
13. The Court's suppression of the truth in its judgement, which is that Heathrow expansion was designated on the basis of a dangerous and discredited temperature limit, is not only dishonest it is a treasonous betrayal of the people of this country.

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