

Press Summary

Peter Barclay and Communities Against Gatwick Noise Emissions (“CAGNE”)

v

Secretary of State for Transport and Gatwick Airport Limited

(Case Nos. CA-2026-001666 and CA-2026-001695)

Court of Appeal (Civil Division)

Tuesday 4 August 2026

Note: This summary is provided to assist in understanding the decision of the Court. It does not form part of the decision or the reasons for the decision. The only authoritative document is the full judgment of the Court, which will be published on the National Archives (<https://caselaw.nationalarchives.gov.uk/>) and the judiciary website (<https://www.judiciary.uk/judgments/>).

On 21 September 2025 the Secretary of State decided to make a development consent order under the Planning Act 2008 authorising the improvement of the runway at Gatwick Airport and the lifting of restrictions enabling the operation of the northern and southern runways as dual runways. The decision of the Secretary of State followed recommendations from the Examining Authority who held an examination into the application by Gatwick Airport Limited for the development consent order. The claimants, who are opposed to the development, both brought claims for judicial review against the order under s118 of the 2008 Act. These claims were dismissed in the High Court by Mould J in a judgment handed down on 23 June 2026 which can be found at [2026] EWHC 1556 (Admin). The claimants sought permission to appeal and their applications were heard on 27-28 July 2026. For the reasons given in the Court of Appeal’s judgment handed down today, permission to appeal was refused on all of the grounds advanced in both applications.

The appeal brought by Mr Barclay was based on two grounds. The first ground was that the judge had erred in concluding that the Secretary of State had correctly interpreted the Airports National Policy Statement in making her decision. The Court of Appeal concluded that whilst the question of the correct interpretation of the policy was a question of law for the court, the Examining Authority, the Secretary of State and the judge had unarguably interpreted the policy accurately in their analysis of the merits of the application and therefore permission to appeal was refused.

Mr Barclay’s second ground of appeal was the judge had been wrong to reject the contention that the Secretary of State’s decision was irrational in relation to the assessment of national economic benefits, in particular when dealing with the contribution of business passengers to the calculation of economic benefits in the National Economic Impact Assessment

provided by Gatwick Airport Limited. Having considered the report of the Examining Authority and the decisions of the Secretary of State and the judge, the Court of Appeal concluded that the judge's analysis that the Secretary of State had placed no reliance on the National Economic Impact Assessment was entirely accurate. The arguments over the conclusions of that report therefore played no part in the conclusions that the Secretary of State reached in respect to the socio-economic benefits of the development consent order and there was no legal error in the decision of the kind suggested by Mr Barclay. The Court of Appeal concluded that this ground was not arguable and refused permission to appeal.

CAGNE sought permission to appeal from the decision of the judge on four grounds. The first of those grounds was that the Secretary of State had taken an irrational approach to the assessment of the significance of the impact of greenhouse gas emissions ("GHGs"). The conclusion of the Secretary of State that the emissions would have a moderate significant adverse effect applying guidance from the Institute of Environmental Management and Assessment was contradictory with her conclusion that the project would not materially impact the Government's ability to meet its net zero targets as required by paragraph 5.82 of the Airports National Policy Statement. The Court of Appeal, in common with the judge in the High Court, concluded that there was no inconsistency of the kind claimed by CAGNE. On the findings that the Secretary of State made, following the recommendations of the Examining Authority, the Secretary of State was entitled to conclude that the proposal fell within the terms of the policy in the Airports National Policy Statement. Permission to appeal was therefore refused.

The second ground upon which CAGNE sought permission to appeal was that the Secretary of State erred in law in failing to require Gatwick Airport Limited to undertake a quantitative assessment of non-CO2 GHG emissions as part of the environmental statement to support the development. The Court of Appeal rejected this submission. The Secretary of State took into account a qualitative assessment of the impact of non-CO2 GHGs and was legally entitled to form the conclusion that there was no settled methodology or benchmark for the appraisal of non-CO2 GHGs so as to require a quantitative rather than qualitative assessment. As the judge concluded, there was no error of law in respect of this issue. The Court of Appeal concluded that the judge was correct and that this ground of appeal was not arguable.

The third ground of CAGNE's application for permission to appeal was the contention that the Secretary of State failed to take into account material risks to the delivery of the Jet Zero Strategy, and in particular the risks to the achievement of the "high ambition" scenario in that policy relied upon by Gatwick Airport Limited. CAGNE relied upon revised modelling produced to support the Government's report "Jet Zero: One Year On", as well as information contained in a July 2025 Policy Commission return for the Department of Transport. The Court of Appeal concluded that, firstly, the revised modelling had been taken into account by the Examining Authority in reaching the conclusion that the policy in the Jet Zero Strategy was robust. In relation to the Policy Commission return, this document was part of the review and monitoring process of the policies contained in the Jet Zero Strategy upon which the Secretary of State was entitled to rely in reaching conclusions in relation to the climate change implications of the development and its impact of the prospects for achieving the statutory target of net zero contained in the Climate Change Act 2008. The Court of Appeal therefore concluded that this ground was not arguable and permission to appeal was refused.

The final ground of CAGNE's appeal related to their concerns about the requirement contained in the development consent order to cater for waste water treatment arising as a consequence of the proposal. The Court of Appeal concluded that the judge had been unarguably correct to reject CAGNE's submissions: the requirement that the development consent order contained in connection with these interests was clearly lawful and therefore permission to appeal was refused.