

Response to Question CC 2.1

Following the Supreme Court judgment in *Finch v Surrey County Council*, I wish to submit my comments on the relevance of this decision to the Applicant's DCO application.

I write as a complete layperson with regards the law but am very capable of critical thinking and sat through the Supreme Court hearing in June 2023 to hear both arguments in this case and have read the subsequent judgment of the Supreme Court handed down on 20 June 2024.

I heard that legislation contained within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which implemented European Union Directive 92/11/EU (the EIA Directive) in the UK, requires an Environmental Impact Assessment (EIA) to be carried out before planning permission can be granted for a development project which is likely to have significant effects on the environment.

The EIA must identify, describe and assess the likely 'direct and indirect significant effects' of the project on the environment, including (among other factors) the impact on climate. The EIA Directive does not impose any geographical limit on the scope of the environmental effects of a project that must be assessed. The impact of greenhouse gas emissions on climate does not depend on where the release occurs [Paragraph 97 of the judgement].

The Applicant in this DCO application has conjectured that national policy in relation to aviation, including Flightpath to the Future, Jet Zero and Jet Zero Strategy: One Year On adequately addresses the need to reduce carbon emissions. However, the *Finch v Surrey CC* judgment states that national policy does not dispense with the requirement to assess the environmental impact of the project or justify limiting the scope of that assessment before the planning decision is taken. The purpose of the EIA is to ensure that, whatever the decision taken, it is taken with full knowledge and public awareness of the likely significant environmental consequences [Paragraphs 140-154 of the judgement].

The *Finch v Surrey CC* judgment does relate specifically to fossil fuel extraction but can be seen to apply also to airport expansion since airport expansion will inevitably result in an increased number of flights, and at this point in time there is no likelihood of commercial international air flights that do not involve the combustion of fossil fuels. A reasonable estimate can readily be made of the emissions that will occur upon the inevitable combustion [Paragraphs 112-139 of the judgement].

It appears therefore that the *Finch v Surrey CC* judgment confirms that an EIA must be undertaken that considers all direct and indirect impacts; that national policy does not detract from any requirement for an EIA; and that establishes legal precedent that relate not only to planning applications for fossil fuel extraction facilities, but also to other applications that will inevitably lead to combustion and greenhouse gas emissions such as airport expansion.