



THE SOUTH YORKSHIRE STRATEGIC INFRASTRUCTURE INQUIRY

An inquiry into the regulatory and institutional changes needed to effectively prevent or mitigate negative impacts caused by significant operational changes in private infrastructure.

Foreword – Martin McKervey, Chair of the Inquiry



Doncaster Sheffield Airport (DSA) was the anchor development at the 1600-acre Gateway East Doncaster mixed-use regeneration site. DSA was acquired by the Peel Group in 1998 and it opened as an international commercial airport in 2005. Doncaster Sheffield Airport Limited, a wholly owned subsidiary of Peel, was

the leaseholder of DSA and the DSA operator. Peel also owns the remainder of the Gateway East land surrounding DSA.

In July 2022 Peel Group took the decision to launch a Strategic Review of DSA. An announcement was made on 26 September 2022 by Peel Group that the winding down of aviation services at DSA would begin on 31 October 2022. DSA finally closed on 4 November 2022.

The closure of DSA had economic, community and social implications for South Yorkshire.

Following the closure of DSA the Mayor of South Yorkshire and the South Yorkshire Mayoral Combined Authority invited me to Chair an independent inquiry to review the existing regulatory, legislative, policy and legal frameworks by which local and regional public authorities can influence private infrastructure owners' operational decisions.

It is the Government's duty and responsibility to determine the resilience levels required of infrastructure in the United Kingdom. A good, constructive and working relationship between the public and private sectors requires collaboration and coordination, each will bring different perspectives, with public authorities perhaps pursuing wider goals than simply commercial considerations, and potentially operating over a longer time horizon.

The lines of the Inquiry were set to review the impacts of significant decisions made by private owners of regional infrastructure assets, such as decisions to close or dismantle infrastructure assets, resulting in adverse effects on stakeholders, communities and the broader strategic economic objectives of the region.

The objective of the Inquiry is to propose reforms and to make recommendations in relation to policies and the legal and legislative framework, empowering local, regional and national leaders with the ability to prevent and mitigate the closure or disposal of assets such as those defined in Local Plans and regional economic strategies, while consistently protecting the interests of stakeholders, the economy and importantly, local communities.

The Inquiry has been led by an independent Chair and Secretariat, with a Reference Group comprising local government officers to ensure the appropriate use of public funds and appropriate levels of transparency. As the Chair I have voluntarily given my time to undertake the Inquiry.

A wider team of independent representatives were engaged to assist and to help inform the work of the Inquiry, including business, civil society, experts and officials from within South Yorkshire and nationally. I wish to thank the Secretariat and the Reference Group for their commitment, energy support and assistance throughout. I also wish to extend my sincere thanks to everyone who has given their time to assist and inform the work of the Inquiry and, if I may I wish to highlight the contribution from the general public and to everyone who attended the various public meetings that were organised.

It is important that I make it clear that this was not an inquiry into or about DSA. The Inquiry is concerned with infrastructure in the UK and how we can protect infrastructure assets, it is future facing. I am very aware that for some who contributed to the work of the Inquiry, they were very familiar with what happened at DSA and indeed for some that informed and shaped the evidence they provided.

I have at all times sought to ensure that the Inquiry, in all of its work has been independent, open, transparent, balanced, fair and respectful for and to all views and opinions.

Martin McKervey, Chair of the Inquiry



Summary of Recommendations

This report proposes four recommendations aimed at strengthening the ability of the UK Government and public authorities to influence decisions relating to strategically important infrastructure assets.

The recommendations are:

- The UK Government should consider whether existing community asset powers could be reviewed and, where appropriate, refined to support public bodies in responding to the potential closure or significant change of strategically important infrastructure assets.
- The UK Government should consider whether national planning policy and guidance, including relevant National Policy Statements, could be updated over time to better reflect issues such as resilience, community impact, and the implications associated with the loss of major infrastructure.
- The Department for Transport should invite the National Infrastructure and Service Transformation Authority (NISTA) to consider setting out a clearer national approach to regional aviation, including high-level principles to help inform decisions relating to potential intervention.
- The Department for Transport, working with regional stakeholders, should consider opportunities to develop a more coordinated approach to regional aviation, with the aim of supporting long-term sustainability and connectivity.



The work of the Inquiry was focused on the following:

1. The different legal and regulatory approaches to managing public impacts of commercial decisions over infrastructure in different domains (airports, the energy system and water);
2. The principles involved in shaping different approaches across types of infrastructure and different markets, with a particular reference and regard to the balance of public interest and commercial incentives; and
3. Opportunities to reform the existing system, including specific legislative, regulatory or policy reforms that ought to be considered.

Inquiry Conclusions and Policy Recommendations

In conclusion, the Inquiry looked into critical gaps and potential areas for reform within the existing frameworks governing private ownership of significant infrastructure in the UK. Our extensive review, data collection and dialogue have highlighted the necessity for a harmonious balance between commercial interests and community well-being, emphasising that infrastructure serves broader societal functions beyond economic calculations. The recommendations put forth aim to support local and regional authorities' capacities to safeguard essential regional assets against sudden disposals or closures. This involves legislative enhancements, strategic planning revisions, and establishing community-oriented rights, which collectively advocate for a more

resilient and democratic oversight of infrastructural developments. If taken forward, these Recommendations, set out in full earlier in this report, could help to prevent future disruptions and ensure that infrastructure policy reflects a comprehensive understanding of the diverse interests and needs that shape our national landscape.



Acknowledgements

I would, as Chair of the Inquiry, very much wish to express my sincere thanks and gratitude to the following for their significant and valuable contribution to the work of the Inquiry: To the staff of South Yorkshire Mayoral Combined Authority for their input in preparation for and undertaking the Inquiry's consultation processes. To the Inquiry's Reference Group for their contribution in assisting the Inquiry, and to the Inquiry's Independent Secretariat, Paula Kohn, for her support, dedication and commitment throughout the Inquiry.

I would also very much wish to acknowledge and thank those members of the public who attended the various public hearings and who contributed in other forms of public participation, such as through email and/ or letter.

The Inquiry benefited greatly from interviews with various experts in infrastructure at regional and national levels, and I would wish to express my sincere thanks to Henri Murison MBE, Chief Executive of the Northern Powerhouse Partnership, to Richard Threlfall, Former Global Head of Infrastructure, Government & Healthcare, KPMG International and, to Kate Willard OBE, Former Thames Estuary Envoy and Chair Thames Estuary Growth Board for their most valuable time, inputs and valuable insights.

Martin McKervey

Chair

22.01.2026.

List of abbreviations

CCP	Centre for Competition Policy
CDC	City of Doncaster Council
DfT	UK Department for Transport
DSA	Doncaster Sheffield Airport
EU	European Union
MCA	The Mayoral Combined Authority
NISTA	National Infrastructure and Service Transformation Authority
NIC	National Infrastructure Commission (now part of NISTA)
NPS	National Policy Statement
NSI	National Security and Investment Act
PSOs	Public Service Obligations
SMEs	Small and medium-sized enterprises
SYMCA	South Yorkshire Mayoral Combined Authority
TCA	UK-EU Trade and Cooperation of 2021
UK	The United Kingdom

1. Executive Summary/Opening Statement

This Inquiry seeks to examine and understand the complex and sometimes conflicting relationship between the autonomy of private infrastructure owners in the United Kingdom and their responsibility for the broader social and economic implications of their operational decisions. Major infrastructure projects, including airports, ports, utility services, and transportation networks, often involve private entities with significant operational independence. This autonomy, while promoting efficiency and innovation, must be balanced against their actions' broader societal and economic impacts. This report highlights key concerns and considerations in navigating this tension and proposes recommendations for policy and legislation changes, aiming to empower Government Authorities in securing the infrastructure demanded and needed.

This Inquiry was informed by the situation at DSA, and the lessons learned from its closure from the perspectives of the City of Doncaster Council and the SYMCA and the business and local communities affected by it. However, the outcome of the inquiry was considered in a broader context, on the basis of the national, regional and local policy frameworks that enable the closure of critical strategic assets such as DSA despite the opposition of the community.

The Mayor called for this Inquiry to be led by an independent and impartial Chair, supported by a secretariat provided by the SYMCA, and accountable to a Reference Group of local government officers responsible for ensuring the Inquiry is in line with its Terms of Reference. The Chair engaged a wider team of impartial representatives, drawing on business, civil society, and government officials – from both within South Yorkshire and nationally based on a fully specified work plan agreed by the Inquiry. It was essential that the Inquiry was impartial and able to set its own direction, shaped in response to written and oral evidence provided.

The main objective of this Inquiry was to learn lessons from recent events, such as the closure of DSA and to reflect upon the ability of the SYMCA to deal with developments owned by private companies within the region. There were questions to be addressed on how this can be prevented from happening again in South Yorkshire or elsewhere.



This Inquiry examined what policy changes might be needed to stop private companies from closing strategic infrastructure without reference to a wider set of views. For this, the Inquiry's Independent Chair and its secretariat listened to key specialists within infrastructure sectors with experience at local and national levels. The SYMCA has also provided the opportunity for members of the community to participate orally and in writing, including attending public representation events with the Inquiry Chair.

The Recommendations are made to enhance the understanding of how to mitigate risks such as these in the future, protecting the wider society's interests as well as the environment and the economy in relation to major infrastructure development. Moreover, the Inquiry considered the policy framework nationally, regionally, and locally, which may serve as a useful example to other authorities nationwide. The issues dealt with here can be applied to any major infrastructure asset and project in relation to local authorities' concerns regarding the wider social and economic impact this may represent.

1.1 Rationale for the Inquiry

Major infrastructure in the United Kingdom plays a critical role in the functioning of society and the economy. This includes transportation networks, energy generation, digital communication, and more. While many of these infrastructures are owned and operated by private entities, they are, in essence, public goods due to their substantial impact on citizens' daily lives.

Private owners of significant infrastructure have substantial autonomy in operational decisions, commonly aligned with profit maximisation and shareholders. This autonomy allows for

innovation, efficiency, and capital investment that can be very beneficial to the sector and the economy. However, this Inquiry focuses on when decisions cause significant negative impacts. Major operational decisions, such as pricing structures, service availability, and environmental practices, can profoundly affect communities, industries, and the environment.

Government Authorities' concerns may vary between affordability and accessibility, environmental impact, infrastructure quality and safety, and regional disparities. For example, private owners may set prices that are not affordable for the general public or may limit access to certain services to maximise profitability, potentially leading to social inequality. Operational decisions, such as energy generation or transportation modes, can have significant environmental consequences, raising concerns about sustainability and long-term environmental impacts. Private owners may also prioritise cost-cutting measures over maintaining and improving infrastructure quality, potentially compromising safety and service reliability. Infrastructure projects can influence regional economic development, potentially favouring affluent areas at the expense of less prosperous regions and exacerbating regional disparities.

The closure of a significant infrastructure asset such as DSA within the South Yorkshire region followed decisions by private companies that could compromise existing strategic economic and spatial plans in the area. Consequently, SYMCA decided to commission a regional Inquiry and provided funding and in-kind resources for a secretariat function in line with the national government inquiry model.

Furthermore, Doncaster is considered a 'key stakeholder' in the Airport case, since it has legitimate and sufficient interest in

the Airport, which is situated within its administrative area and considered a key asset. Accordingly, the SYMCA has sought to ascertain which mechanisms are (or are not) in place to prevent private infrastructure companies from acting without regard for the impact on wider social and economic outcomes.

This inquiry will complement the CDC (City of Doncaster Council) efforts by advising local, regional, and national policymakers on changes they can make to secure such assets in the future.

This Report is structured as follows. The next section (Section 2) provides the scope, objectives and Terms of Reference of this Inquiry. Section 3 explains the Inquiry's methodology, which includes the timeline, composition, data collection and evidence of stakeholder engagement. Section 4 provides a discussion of the literature review. This consists of analysing case studies reinforcing our understanding of the subject matter. Section 5 then analyses the key findings, providing disclosure of the discussion from interviews and public meetings. Section 6 draws conclusions and presents some recommendations. Finally, section 7 offers the Inquiry's closing remarks.



2. Scope and Lines of Inquiry

Members of the public were invited to provide written submissions to the Inquiry, and the Inquiry held evidence sessions to hear from academics, politicians, and other leaders, including business representative organisations and community and voluntary organisations.

The Inquiry was conducted in such a manner as to avoid any activity that would prejudice the ongoing legal and commercial negotiations around the DSA site itself.

The main premise and objectives of this Inquiry are listed below:

- a. Major infrastructure projects, including airports, ports, utility services, and transportation networks, which often involve private entities with significant operational independence. This autonomy, while promoting efficiency and innovation, must be balanced against their actions' broader societal and economic impacts.
- b. The Inquiry addresses the complex and sometimes conflicting relationship between the autonomy of private infrastructure owners in the United Kingdom and their responsibility for their operational decisions' broader social and economic implications.
- c. The Inquiry highlights some key concerns and considerations in navigating this tension and proposes recommendations for policy and legislation changes to empower Government Authorities in securing the infrastructure that we need in the UK.
- d. A review of the policy framework that enabled the closure of DSA serves as the basis of this Inquiry.
- e. The Inquiry considered the key factors influencing public and private asset owners' decisions and how these decisions impact stakeholders.
- f. This Inquiry also focused on system issues. It does not, however, comment on the status of individual projects and will not propose detailed changes.
- g. An analysis of similar infrastructure case studies, including those outside the aviation sector, aims to identify possible lessons that could be learnt from them.
- h. The Inquiry considered the proposition of reforms at national, regional and local levels to prevent the abrupt closure of strategic infrastructure without referencing other stakeholders' views or the implications for broader strategic and economic objectives.
- i. The inquiry aims to review the impacts of significant decisions made by private owners of regional assets, such as

abrupt closures or dismantling of such, resulting in adverse effects on stakeholders, communities and the broader strategic economic objectives of the region.

- j. This Inquiry provides Recommendations as to how best to mitigate risks or prevent future sudden closure of major infrastructure assets. Where possible, the report will consider the recommendations' costs and benefits.
- k. The Inquiry will set out options for developing and enhancing regional and national governments' ability to work in collaboration. It also proposes reforms to increase the ability of public players to prevent abrupt changes to strategic infrastructure, notoriously affecting stakeholders and communities.

2.1. Inquiry's Terms of Reference

The Chair and other members of the Inquiry agreed upon the Terms of Reference. They are set out below.

South Yorkshire's Mayor has called for this inquiry to learn lessons from the policy environment that enabled the abrupt closure of Doncaster Sheffield Airport.

The lines of inquiry will be:

- *To review the existing legislative, regulatory, policy and legal framework that enables private owners of regional assets (such as those defined in Local Plans and regional strategies) to close or otherwise dispose of those assets without reference to: stakeholders' views; the implications for wider strategic and economic objectives; or the potential impact on communities.*

- *To propose reforms to empower local, regional and national leaders to prevent or mitigate the abrupt closure of such regional assets.*

The Inquiry will be led by an independent Chair, supported by a secretariat provided at arm's length by the SYMCA.

Members of the public will be invited to provide written submissions to the Inquiry, and the Inquiry is expected to hold evidence sessions.

The Inquiry will run from Autumn 2023. The output will be a report to the Mayor of South Yorkshire, who will then determine the regional response.

The Inquiry should conduct its work in such a manner as to avoid any activity that may prejudice ongoing legal and commercial negotiations around the Doncaster Sheffield Airport site itself. A Reference Group of local government officers will be formed to liaise with the inquiry chair to ensure that this is the case.

The Inquiry's focus should be on general lessons we can learn from past episodes and current policies, regulations or laws to guide future reforms. It should consider the case for reforms that would increase the influence of democratically elected representatives, including council Leaders and Mayors.

Any variation to this Terms of Reference will be subject to the agreement of the Mayor and Leaders.

3. Methodology applied to this Inquiry

This section explains how this Inquiry was formed and details its composition. There follows a description of its timeline and how the data was collected from interviews and public meetings.

The Inquiry was led by a Chair without any interference from political leadership. The Chair of the Inquiry was committed to conducting and delivering an Inquiry which at all times remained independent and impartial and ensured that best practices and procedures were followed at all times. It is important to note that the Chair dedicated his time voluntarily to conducting the Inquiry.

As anticipated, there was considerable interest in the Inquiry, with written submissions, interviews and public meetings. The SYMCA provided staff members to support the logistics for external events (i.e. organising public meetings) so that the Inquiry team could concentrate on the substance of the work.

3.1 Inquiry's timeline

The Inquiry ran from Autumn 2023, based on a work plan developed by the Chair in collaboration with South Yorkshire Mayoral Combined staff members and the Inquiry's Reference Group. Having completed the inquiry's work, the Inquiry Report has been handed over to the SYMCA.

3.2 Composition of the Inquiry Chair, the Inquiry's Secretariat and the Reference Group

The Inquiry was Chaired by Martin McKervey, retired Solicitor and former partner at global law firm CMS Cameron McKenna Nabarro Olswang LLP. The Chair designed a complete work plan for the Inquiry and heard evidence. His independence and strategic leadership role were central to the effectiveness of the Inquiry.

Martin McKervey commands the respect of stakeholders across South Yorkshire and nationally as a former High Sheriff of South Yorkshire 2021-22, a former partner at global law firm CMS Cameron McKenna Nabarro Olswang LLP and, a leading figure in the business community (a Non-Executive Director at AESSEAL plc, Director of Vulcan Engineering Limited, a former board member of the Sheffield City Region Local Enterprise Partnership and Transport for the North Partnership Board, the former Chair of the Sheffield Property Association and, of the Northern Regional Assembly of the British Chambers of Commerce (comprising the 16 Chambers of Commerce in the North of England) and, the recently appointed Chair of the Jobs Foundation Yorkshire Business Council).

As a respected business and civic leader, and with a career in the legal profession, he is considered exceptionally well-placed to deliver credible findings for the Inquiry while commanding the support of communities and Leaders both across the region and beyond.

As Chair, Martin McKervey considered impartiality, credibility, and ability to command legitimacy and respect across the community and broader business community essential. The Chair was also keen to ensure that this Inquiry would not be about party politics but about protecting infrastructure. For this reason, the Inquiry was held and conducted entirely independently from the Mayor and the SYMCA.

The Inquiry's Reference Group comprised officers from SYMCA to ensure the appropriate use of public funds and proper levels of transparency.

The Inquiry secretariat, Paula Kohn, provided important academic support to the Chair and the Reference Group. Paula has over 25 years of experience as a lawyer, consultant and lecturer. Her main responsibilities as secretariat involved reviewing the literature, legislation and regulation relating to the Inquiry; organising and taking part in interviews, analysis of the interview transcripts, and overall academic support in the composition of this Inquiry report.

3.3 Data collection and evidence gathering from stakeholder engagement (Interviews, round tables hearings, public)

The data gathered in this Inquiry includes the transcripts of interviews, a summary of the public hearings and any other form of public participation, such as through email and/ or letter.

The interviews were managed and conducted by the Chair and the Secretariat. The interviewees included experts in infrastructure assets and acquisitions at regional and national levels, with vast experience of working within both government and the public and private sectors.

Prior to each interview, the interviewees were provided with a summary of the Inquiry and a 'Participant Information Sheet' (Appendix item 9.1) document containing detailed information about the inquiry's scope and format, including a clear explanation of how data would be collected. During the interview, the Chair and the secretariat confirmed with each interviewee that they were aware of their rights to withdraw and reinforced that the data collected from the recordings of interviews would be deleted as soon as its analysis was concluded. They were also provided with the inquiry's official email (infrastructure.inquiry@southyorkshire-ca.gov.uk) if they had any further comments or questions regarding their participation.

The interviews followed a structure divided into three main parts: firstly, looking into the different legal and regulatory approaches to the management of public impacts of commercial decisions on infrastructure in various domains, be those airports, energy, water, etc. Secondly, the interview moved on to questions about the particular case of DSA and their knowledge of similar cases with which they were familiar that involved major infrastructure assets within and outside the UK. The final part presented questions regarding the role of the government and of private owners in developing the infrastructure market and the associated growth, resilience, and stability of the economy on both a local and national scale.

Public hearings were held in Doncaster and Sheffield on 3 January 2024 and in Doncaster on 20 February 2024. The Chair invited attendees to express views on three questions:

1. What is your view on how we might get the balance right between commercial incentives and the public interest?
2. Are there other sectors or other places where perhaps we strike a better balance between public authority and private demand?

3. What should government do to address these situations?

The general view expressed by the attendees was that for many forms of infrastructure – including airports – it was appropriate for private companies to deliver services given their expertise and capabilities, with the caveat that there should be mechanisms in place for public authorities to intervene if necessary. In general, there was a sense of need for greater clarity, accountability, and responsibility across different tiers of government.

It was also suggested by the attendees that lessons should be learnt from the Assets of Community Value system, in which community groups and parish councils can nominate community assets to their local authority. If such nominations are accepted, then when those assets are put for sale, a moratorium is imposed, allowing community groups to express interest and attempt to buy the asset themselves.

Another prominent suggestion given by the attendees was that the local planning system should have a role in protecting the public interest in relation to privately held assets such as airports, noting the example of Doncaster's Local Plan requiring the site of DSA to be used for aviation purposes as a condition for wider development in the area.

The Chair closed the public meeting by thanking everyone for attending, reiterating his offer to hear further evidence, and calling for written submissions to the dedicated email of **infrastructure.inquiry@southyorkshire-ca.gov.uk**.



4. Literature review

In this section, we present literature and discussions regarding legal and regulatory aspects that are deemed relevant to the work of the Inquiry, including examples of case studies that reinforce the work undertaken by the Inquiry. The review included academic articles, media materials, and analyses of legislation, regulation, and reports on infrastructure sectors within the UK and abroad (more details of each citation can be found in section 8. References). The literature was based on three focus areas of investigation:

- i. The different legal and regulatory approaches to managing public impacts of commercial decisions over infrastructure in other domains (airports, the energy system, water);
- ii. The core principles involved in shaping different approaches across types of infrastructure and other markets concerning the balance of public interest and commercial incentives and
- iii. Opportunities to reform the existing system, including specific legislative, regulatory, or policy reforms that the inquiry ought to consider.

Although the UK is often ranked internationally as one of the most robust regulators among major countries, the domestic analysis of the UK regime is often criticised. The poor quality of regulation is mainly attributed to key traditional economic criteria such as enhanced competition, innovation, and facilitation of investments.

The National Infrastructure Commission (NIC) — now part of the National Infrastructure and Service Transformation Authority (NISTA) — published its first National Infrastructure Assessment (NIA) in 2018. The second assessment was published in October 2023 by the NIC (now part of NISTA). They provide outstanding contributions based on a rich study and planning perspectives for the UK’s national infrastructure. However, one of the challenges of the Government, as pointed out by Sir John Armitt, is to turn the acceptance of recommendations into accurate delivery. It is the role of the Government to say what they expect from each sector in terms of resilience. Regulators, on the other hand, need to start working with companies to agree on the level of investments. There is a call for certainty and consistency for a reliable period that enables resilience and attractiveness within markets.

The National Security and Investment Act (NSI) of 2021 seeks to protect UK assets and infrastructure. It allows the government to intervene in certain acquisitions made by anyone that could harm the UK’s national security. This legislation is very much concerned with matters of certainty and transparency to businesses and investors to do business in the UK. The NSI Act empowers the government to scrutinise and intervene in business transactions such as takeovers, aimed at mitigating “national security risks arising from the acquisition of control over certain types of entities and assets; and for connected purposes” (NSI Act, 2021, Chapter 25).

The government provides National Policy Statements (NPS) and give reasons for the policy set out in such statements. It must explain how the specific policy takes into account government policy related to the mitigation of and adaptation to climate change. NPS are used to formalise the government's objectives for developing significant national infrastructure in a particular sector. These statements are subject to a democratic process of public consultation and parliamentary scrutiny before being designated-published. They provide the framework within which Examining Authorities recommend to the Secretary of State. Twelve designated NPSs set out government policies on different types of national infrastructure covering energy, transport and water. An NPS for airports was appointed in June 2018 and broadly addresses the issues around expansion at Heathrow.

Looking at comparative issues outside the UK, an interesting contribution can be found from a European Parliament Briefing on 'The future of regional airports: Challenges and opportunities'. Published in February 2021, it raised concerns over issues in the aviation sector post-pandemic. The briefing highlights the impact of the coronavirus pandemic on EU airports, focusing on sustainability, concerns regarding restoring public confidence, the importance of accelerating digitalisation and providing support to regional airports during the coronavirus pandemic. This is because the European Union recognises the importance of regional airports to the economy:

“Regional airports are an important part of the European Union (EU) aviation system. They are engines of socio-economic development and improve accessibility to certain locations, particularly remote or not well served by other forms of transportation. They also have

a vital role in terms of economic and social cohesion, stimulating tourism and employment, as well as facilitating access to essential services. In addition, they can help to reduce congestion at major hub airports” (European Parliament Briefing on 'The future of regional airports: Challenges and opportunities', 2021).

If comparatively applying lessons from this case to the issues pointed out in this Inquiry, we can learn that: a) in the EU, it is recognised that issues of local/regional airports should be dealt with through specific measures to effectively support local airports in overcoming the pandemic crisis at economic and social levels; b) we recognise the criticism this case received over the fact that aid decisions may distort competition. However, this case showed that a quick recovery is imperative for the maintenance of local/regional airports. It also demonstrates that Government intervention and subsidy played an important role in recovering such assets economically. We, therefore, extend our knowledge to evaluate the aspect of temporality and urgency that this international case required. With this example, although it was taken at a time of unprecedented circumstances, the principles applied to the decisions were based on the nature of local airports' general needs and specificities. We could argue that in rare circumstances where the private owner makes sudden decisions that are prejudicial to the local public's broader economic and social interest, the government's temporary subsidy can be seen as a measure to balance out the public interests over private market decisions. That goes beyond competition distortion, reaching out to the vulnerable communities' connectivity and employability, and local businesses, etc., affected by such decisions.

In October 2019, the Centre for Competition Policy (CCP)

conducted a study on the impact of the UK regulatory model on competition, consumers, investment, and innovation, with a particular focus on energy, telecommunications and water sectors. The study's Report concludes that active competition has proven a particularly strong driver of consumer and productivity benefits, often with regulatory support. The study touches on the importance of future research in identifying actual investment needs in infrastructure sectors' regulation. It gives examples where pre-privatisation investment may have been insufficient (e.g., water) or gilded in others (e.g., energy). It also makes a point about the difference between sectors where customers have a quality choice (e.g., telecom products) compared to those for which they do not have a quality choice, such as in the water sector. This aspect connects with how the water sector balances competition with significant externalities, such as being vital to public health, implying political interest and public sector involvement. Another issue is the difficulty in identifying the origins of problems with multiple competing operators. The Report was commissioned by the Centre on Regulation in Europe, and researchers investigated how the different incentives for water operators in the public and private sectors affect investment decisions and efforts to drive cost efficiency. For example, the accountability of operators in the same infrastructure in the case of the spread of water-borne diseases or pollution may interfere with how regulators and operators assess a problem, which in turn may imply costs, time and systematic bureaucracy, interfering in competitiveness among them (Commissioned Report authors: Ennis and Deller, 2019).

The UK-EU Trade and Cooperation Agreement of 2021 (TCA) is an important agreement that allows UK and EU airlines to continue operating services between territories. However, it has limited

commercial freedoms to basic connectivity, affecting the freedoms of UK airlines to fly between member states or operate domestic services within them. Adding to this, little progress has been made in discussing the matter of regulation of UK aviation.

The impact of both continuity and change in the regulation of key infrastructure sectors in the UK post-Brexit still needs consideration. As the report on 'UK Regulation after Brexit Revisited' highlights, little has changed in aviation, mostly around broad-ranging responsibilities. The report, published in October 2022, recognises that, historically, the UK had an important role in championing the EU's liberalisation of aviation policy. In addition, they highlighted how highly regulated the air transport sector already is and how this limits the possibilities for significant divergence with respect to commercial operations, for example. Nevertheless, it criticises the government's inability to deliver its pronouncements that the UK would become a 'rule maker' that would tailor regulation to suit the needs of the UK (UK Regulation after Brexit Revisited Report, 2022).

The Aviation Policy Framework published in 2013 was an important step in emphasising the importance of airports at the regional level, with plans and decisions at the local and regional levels. The National Infrastructure Delivery Plan 2016-2021 presents the UK government's plans for economic infrastructure over the years 2016 and 2021. According to item 5.11. of the document, *smaller airports are vital for local economies, opening opportunities and connecting the UK*.

Medium-term strategies for the sector have been developed. One example is the 'Flightpath of the future' (2022). This new framework builds on the responses received to the Aviation 2050 consultation

(2018), establishing commitments for aviation over 10 years after its publication in May 2022. The consultation is clear in its aim to develop regional aviation within the UK, stating that “Regional airports are an essential part of this network, and they have suffered significant downturns as a result of the pandemic. Given their important role in supporting local economies, this downturn has had wider impacts for local areas.” According to Mendez (2001), governments should prioritise integration strategies with the private sector to increase trade opportunities at a lower cost in less time. This would require collaborations between different stakeholders, such as logistics providers and integration of transport infrastructure for better business opportunities (Mendez, 2001. Melgar, Torres-Polo and Tobon, 2024).

The ‘Flightpath of the future’ (see map in appendix item 9.5) strategy to support domestic and union connectivity is linked to another policy paper: the ‘Levelling up the United Kingdom’ White Paper, published in February 2022, recognising the economic and social geographical disparities within the UK at the same time the need for greater support to certain communities and people, restoring their sense of community, local pride and belonging. This flagship document relies on a new model of economic growth, public and private investment and private initiatives. It also delivers a promising new model for counties with mayors or ‘governors’, extending, deepening, and simplifying devolution. However, the White Paper establishes a long-term programme requiring a fundamental “shift in how central and local government, the private sector and civil society operate” (Department for Levelling Up, Housing and Communities, Policy paper Levelling Up the United Kingdom, 2022).

In December 2023, the UK Department for Transport (DfT) published the Public Service Obligations (PSOs) - a policy on the protection of regional air connectivity. The document is an attempt to provide a broader framework to protect air services within the UK. It follows the imposition of PSOs previously governed by EU regulation, which is now retained in UK law. The document replaces the previous ‘Guidance on the Protection of Regional Air Access to London’, published in 2013.



5. Key findings from interviews, public meetings, and discussions

Findings suggest that the aviation sector works quite similarly to the port sector in terms of how the market develops. This is particularly in relation to how these two markets advance, mostly in hybrid models (public/private owned or subsidised assets). Airports and ports are largely private markets, but they both have forms of state actors involved in often implicit guarantees/subsidies (National Infrastructure Delivery Plan, 2016). In both cases, when an asset stops making a profit, it usually closes.

The following are worthy of consideration:

- It is important to improve the stakeholders' understanding of private-public interest balance: knowing who most effectively provides the service and deciding who should pay for it (consumer/taxpayers/a combination of the two).
- The way planning policy works in the UK is problematic: there is a need for updating planning legislation and national policy statements.
- The government needs to develop some principles as to what it understands as the national interest as regards airports such as DSA. Is it considered a matter of public policy interest?
- The challenges regional leaders and local authorities face in engaging in decisions about major infrastructure, reflecting the centralised nature of the UK system.

- It is also important to consider small and medium-sized enterprises (SMEs) in the process of developing infrastructure. SMEs employ circa 90% of people at work. This should be sufficient for authorities to recognise that infrastructure is crucial not only to big businesses but also to SMEs and consumers. They (SMEs) should be given more scrutiny when it comes to planning infrastructure. This could accelerate collaboration and technology readiness, favouring Government and Industry coordination as well as improving communication channels and regulatory guidance. It would also favour an environment of resilience and devolution.

During the interviews, one interviewee suggested that the closure of such infrastructure assets usually has scarring effects at local and national levels. Partly because these types of assets are vital for international connectivity.

Other cases, such as partially privatised Manchester and Newcastle airports, are examples of hybrid models that are not primarily subsidised anymore. Instead, these assets can be seen as their respective public investment assets rather than being actively managed. Such hybrid models are complicated cases because they include public and private interests that can be conflicting. On the one hand, private assets are run in the interest of their stakeholders in making a profit. On the other hand, public assets or public shareholders are tied to a more complex net of

external stakeholders whose interests go beyond profitability to reach out to employability, regional economic growth, environment protection, public connectivity and more.

As one interviewee pointed out: “The difficulty local authorities find in maintaining regional airports adds to the fact that local governments control such a small proportion of income with so centralised in terms of our taxation regime that nearly all [...] ends up in Treasury. It may explain why Leeds Bradford was sold off by the shareholding”.

Another interesting case study cited by one of the interviewees was within the steel sector. The British Government had to intervene when British Steel decided to shut their blast furnace in Scunthorpe and stop making virgin steel, which would no longer be available in the UK. It was a decision that affected several businesses, including within the South Yorkshire region. As they put it: “It is now with a government subsidy to build electric furnaces, but only one of them to being at Scunthorpe, due to be causing around 2000 people to become redundant”.

Carlisle Lake District Airport in Carlisle, Cumbria, is added to the list of cases cited by interviewees. The Inquiry considered this to be an interesting airport case in terms of regional growth. It is important to note that regional airports have the same fixed costs as much bigger airports, particularly fire, air traffic, and security costs. In this case (Carlisle Lake District Airport), the region’s pride was supported by a major piece of work around the kind of ancillary impact a regional airport had and what it played in the region’s growth that played a huge role in the confidence of the city (Carlisle) and within that region. Whilst this airport sadly closed during the pandemic, it remains a clear case demonstrating how

regional airports can create highly skilled and relatively well-paid jobs and provide great connectivity. In addition, regional airports can also be a major contributor to the confidence of a region which itself plays an important role in the successful economic growth and regeneration of any place.

Other relevant examples cited by one interviewee include the Cardiff airport and an interesting case within the energy generation market:

- **Cardiff International Airport Ltd. (CIAL)**, located in Rhoose, Wales, which was earlier owned by multiple public authorities. The airport was privatised in 1995 when the local authorities sold CIAL to the TBI Group (former TBI Limited, an airport owner and operator, incorporated in the United Kingdom in 1972). The TBI Group was itself acquired by the Spanish infrastructure group Abertis Infraestructuras SA (Abertis) in 2005. As a result of that acquisition, Abertis became the new owner of the Airport. However, in December 2012, the Welsh Government entered into formal negotiations with Abertis about the purchase of the Airport as it was concerned that it might be run down to an extent that it would no longer be commercially viable and would then close, putting jobs at risk and leading to the loss of a vital national asset. Consequently, the Welsh Government purchased the Airport in March 2013 for £52.0 million to operate at arm’s length from Ministers.
- Uniper SE, a Germany-based energy generation and energy trading company. Uniper was formed out of a spin-off of a majority of E.ON’s upstream energy generation business into a separate company in January 2016. Uniper was an initial investor in Nord Stream 2 AG (the project company for Nord

Stream 2) providing a EUR 950 million loan, which it fully impaired following Russia's invasion of Ukraine in March 2022. In the context of the gas supply shortage from Russia and increased price pressures, the German government nationalised the company to ensure the gas supply into Germany, completing the transaction to increase its stake to 99.12% (the other 0.88% are free float shares).

These series of interviews and discussions brought light to many aspects of the Inquiry. Interviewees' expertise in infrastructure provided the Chair and secretariat with rich contributions, reflected in the conclusion and recommendations.



6. Conclusions and Recommendations

Regardless of whether a major infrastructure asset is public or privately owned, having a strong regulator can act as a commitment device to ensure the necessary level of investments occurs.

This Inquiry's recommendations are along the lines that in certain circumstances, the government should and must intervene to protect key infrastructure assets where closure would have a damaging, harmful and detrimental impact on the regional and wider UK economy.

The Inquiry seeks to make the case that we need an NPS which seeks to address and deal with the closure of significant regional and local infrastructure assets, providing for a democratic process of public consultation and parliamentary scrutiny and which is weighted in favour of government intervention to protect the infrastructure asset in question when the evidence points to the impact closure will have on the regional and wider UK economy.

We maintain that the Government needs to examine regional airports separately. This should include what the Government could do concerning regional infrastructure, such as pilot schemes, triangulation, investments for airports to use hydrogen, and viable cleaner options.

We also agree that a more explicit role for regional infrastructure projects is beneficial, with policies or reviews developed to improve and incentivise the private sector to contribute, such as investment

zones. This could imply further studies of the different models involving local authority owners and private sector ownership. It could also facilitate practices focused on levelling up funds and mechanisms among other regions within the UK.

In shaping the Recommendations, the Inquiry has had regard to:

- **Regulatory Oversight:** Regulators should maintain a vital and proactive role in overseeing private infrastructure owners, ensuring operational decisions align with broader societal and economic goals.
- **Stakeholder Engagement:** Encourage meaningful engagement with stakeholders, including communities, industry representatives, and environmental groups, in decision-making processes to increase their participation and resilience.
- **Transparent Reporting:** Mandate transparent reporting on infrastructure performance, pricing, and environmental impact, allowing the public and regulators to hold owners accountable.
- **Incentives for Responsible Practices:** Establish financial incentives, tax benefits, or grants for private owners, prioritising responsible operational decisions that benefit the public interest.
- **Long-Term Planning:** Encourage owners to adopt long-term planning, including sustainability and resilience measures, to mitigate the impact of short-term profit-seeking decisions.

- In the case of private companies' decision to shut down an infrastructure asset, there should be a statutory right in place to allow the public sector to buy the asset at market value, preferably while still operational, and before its closure.
- The evaluation of economic impacts that job losses have in the event of an asset closure must consider the different skills and wages of the affected workforce. The accuracy and use of such data may provide local authorities with informed decisions to reduce unemployment's social and economic impacts more effectively, accelerating job relocation with measures such as facilitating training programs and recruitment processes.

With those in mind and to navigate the tension between autonomy and responsibility, four main recommendations are proposed:

Recommendation 1: Enhancing Community Asset Law for Major Infrastructure Intervention

Proposal:

The Inquiry believes there is merit in considering amendments to the existing community asset legislation to explicitly include provisions that empower the public sector to intervene in cases where the private sector seeks to close or significantly alter the operation of major infrastructure assets. This amendment should grant local authorities, regional governments, or specific national bodies the right to temporarily halt the closure or sale of such assets to allow for a comprehensive impact assessment and the exploration of alternative management or ownership models. Extensively, this amendment should also consider creating a statutory right for the public authority to purchase the asset at market value through a simplified Compulsory Purchase Order process if the owner will not voluntarily sell.

In support of this recommendation Government should work with Strategic and Local Authorities to undertake critical infrastructure audits at local, regional and national levels to make clear the scope of any amendments to legislation.

Justification:

The closure of DSA has underscored the potential community and economic impacts of losing critical infrastructure. Enhancing community asset law would provide a formal mechanism for considering such decisions' broader social, economic, and environmental consequences and exploring public interest options before allowing irreversible actions.

Recommendation 2: Updating National Policy Statements to Reflect Infrastructure Challenges

Proposal:

The Inquiry believes there is merit in revising the National Policy Statements (NPS) to incorporate updated planning legislation that accounts for modern infrastructure projects' unique challenges and needs, including those operated by private entities. These revisions should prioritise sustainability, community impact, and resilience in infrastructure planning and decision-making processes.

Justification:

Current planning policy, as evidenced by its limitations highlighted in the UK context, is insufficiently equipped to address the complexities of today's regional and local infrastructure needs. An updated NPS framework can better guide the development and operation of infrastructure projects, ensuring they align with regional and local interests and community welfare.

Recommendation 3: The National Infrastructure and Service Transformation Authority (NISTA) should be invited to address the significance and importance of regional aviation to the economy of the UK.

Proposal:

The Inquiry recommends that the National Infrastructure and Service Transformation Authority (NISTA) should be invited to address the significance and importance of regional aviation to the economy of the UK, to include a focused discussion on regional and local airports in its agenda, and advocating for a more integrated approach between government and the major infrastructure departments. This discussion should involve exploring mechanisms for supporting airports, considering their economic, social, and strategic importance to both regional development and the wider UK economy.

Justification:

Despite the relevance and rigour of the NIC's 2023 report (now under NISTA), which sits within a global context, there remains a need for a more nuanced approach to infrastructure policy that considers the diverse roles and challenges of regional and local airports. By fostering greater collaboration between government bodies and infrastructure departments, NISTA could now help ensure these critical assets receive the attention and support necessary for their sustainability and growth.

Recommendation 4: Developing a Regional Aviation Strategy

Proposal:

The Inquiry recommends establishing a national Regional Aviation Strategy. This strategy should be driven and informed by regional leaders to develop cooperation among local governments and with national government and the private sector to support the development and maintenance of regional airports. It should encompass funding and financing models, operational guidelines, and shared services to enhance the viability and efficiency of regional aviation infrastructure.

Justification:

In the view of the Inquiry, the experience with DSA highlights the vulnerability of regional airports to operational and financial pressures. A collaborative national Regional Aviation Strategy could provide a framework for local authorities to pool resources, share best practices, and advocate collectively for regional airports, ensuring these assets continue to serve their communities effectively. The development of such a strategy should also involve a much greater collaboration and joined up approach across Government and Government Departments, thereby ensuring and providing greater certainty and cohesion in relation to the regulatory, planning and environmental aspects of strategic infrastructure assets.

7. Closing Remarks

Balancing the autonomy of private owners with their responsibility for the broader social and economic impacts of major infrastructure is vital for achieving economic growth that translates into a better society, good jobs and increased social stability. While private ownership can bring efficiency and innovation, the potential for negative consequences demands proactive regulatory oversight and responsible practices. The recommendations presented in this Inquiry aim to address these concerns by providing an understanding of what tools and mechanisms should be in place to secure significant infrastructure assets in the future.

In conclusion, the Inquiry has sought to examine, through comprehensive analysis and consultation, guided by the Terms of Reference, the need for substantial reforms in the legislative, regulatory, policy, and legal frameworks governing the operation and potential closure of private infrastructure assets.

The Inquiry's findings stress the importance of enhancing the balance between private autonomy and public interest, ensuring that major infrastructure decisions are made with a full understanding and consideration of their implications for strategic, economic, and community objectives. The recommendations proposed herein aim to empower local, regional, and national leaders with the tools and authority needed to intervene and guide the development, operation, and potential closure of such assets more effectively, thus protecting broader societal interests.

Furthermore, the Inquiry underscores the necessity of involving a wide range of stakeholders, including the public, in the decision-making processes related to infrastructure projects. By fostering a more inclusive and transparent approach, we can ensure that the voices of affected communities are heard and considered, thereby enhancing the legitimacy and effectiveness of infrastructure management.

The Inquiry also calls for a proactive stance on infrastructure policy, urging a shift towards anticipatory rather than reactive strategies. This involves addressing the immediate challenges posed by the closure of assets like DSA and preparing for the future by building resilience and adaptability into our regional infrastructure systems.

In light of the lessons learned from the events surrounding the closure of DSA and the insights gained throughout the Inquiry process, it is perhaps important that regional and national leaders working with other stakeholders and communities give proper and due consideration to implementing the Recommendations of this Inquiry. Only through such concerted efforts can we hope to prevent the recurrence of similar situations and ensure that our infrastructure serves the best interests of all stakeholders, now and in the future.

As we look ahead, the Inquiry encourages ongoing dialogue and collaboration among all parties involved in infrastructure development and management. By working together, we can

create a more sustainable, inclusive, and resilient infrastructure ecosystem that supports the growth and well-being of South Yorkshire and the wider UK.

It has been a privilege to undertake this Inquiry. In doing so, I have felt a great sense of responsibility to arrive at a position whereby some meaningful Recommendations can be presented for discussion and consideration. If the work of the Inquiry has laid the groundwork for meaningful change, then that can be looked upon as a good thing. It is now up to our leaders (local, regional and national), working with the private sector, stakeholders and communities, to take up the mantle and drive forward the reforms needed to safeguard our regional infrastructure assets and, by extension, our collective future.

Martin McKervey, Chair



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9. Appendices

9.1. Participant Information Sheet

Martin McKervey, Chair

**On behalf of the South
Yorkshire Mayoral Combined
Authority (SYMCA)**

**Paula Kohn, Independent
Secretariat**

31 October 2023

An inquiry into the regulatory and institutional changes needed to effectively prevent or mitigate negative impacts caused by significant operational changes in private infrastructure.

PARTICIPANT INFORMATION SHEET

You are invited to contribute to in an independent and impartial inquiry, commissioned by the South Yorkshire Mayoral Combined Authority.

This Participant Information Sheet, the Summary document and the Consent Form will explain the background to the inquiry; provide the relevant context; and explain the work which the inquiry is undertaking. Knowing what is involved will help you decide if you would wish to take part in it.

Please read this sheet carefully and ask questions about anything you do not understand or want to know more about. We very much hope that you will be able to contribute to the work of the Inquiry.

We are inviting you to contribute and to assist the work of the Inquiry because of your knowledge, experience and expertise. Your input and contribution will be very valuable, relevant and important.

1. What is this inquiry about?

The South Yorkshire Mayoral Combined Authority (SYMCA) has commissioned an independent inquiry to review the regulatory, policy and legal frameworks in place to enable public authorities to prevent abrupt changes to privately-owned strategic infrastructure.

SYMCA's objective is to propose reforms to policies and the legal framework, empowering local, regional, and national leaders to prevent or mitigate the closure or disposal of assets (such as those defined in Local Plans and regional strategies) while consistently protecting the interests of stakeholders, the economic growth, and local communities.

You have been invited due to your experience and expertise in this area.

Participation in this Inquiry is voluntary. By giving consent to take part, you are telling us that you:

- Understand what you have read.
- Agree to take part in the Inquiry as outlined below.
- Agree to the use of your personal information as described.

- You have received a copy of this Participant Information Sheet and the Summary to keep.

2. Who is running the study?

The inquiry will be led by an independent Chair (Martin McKervey) and Secretariat (Paula Kohn), with support from a Reference Group made up of Combined Authority officers to ensure appropriate use of public funds and appropriate levels of transparency.

3. What will the inquiry involve for me?

We recognise that your time is precious and valuable, and we, therefore, wish to work with you in whatever way enables you to make the best contribution you can to the work of the Inquiry.

The inquiry will involve an approximately one-hour interview (to be scheduled at your convenience over November 2023).

An audio recording of the interview may be taken to facilitate the Secretariat in the writing of a Minute. After the Minute is written, the recording, if taken, will be deleted.

Roundtables may also be formed in a hybrid format (in-person and online). This will be arranged by the Chair, who will inform interviewees of the date and time these round tables may occur.

4. Do I have to be in the Inquiry? Can I withdraw from the Inquiry once I have started?

Being in this inquiry is entirely voluntary, and you do not have to take part.

If you decide to take part in and contribute to the work of the

Inquiry, you can withdraw your consent up to the point that the inquiry Report is ready for publication. You can do this by informing Paula at enquiries@southyorkshire-ca.gov.uk.

5. What are the consequences if I withdraw from the inquiry?

You are free to stop the interview at any time. Unless you say that you want us to keep them, any recordings will be erased. You may also refuse to answer any questions that you do not wish to answer during the interview. We also recognise that there may be certain questions you are not able to answer.

6. Are there any risks or costs associated with supporting and assisting the work of the inquiry?

Aside from giving up your time, we do not expect that there will be any risks or costs associated with taking part in this Inquiry.

7. Are there any benefits associated with supporting and assisting the work of the inquiry?

Your contribution will shape the conclusions of the inquiry Report, which the South Yorkshire Mayoral Combined Authority intends to use to inform discussion, planning, and delivery of future strategic infrastructure in the region; and for lobbying fellow regions and national government to reform the policy environment.

8. What will happen to the information I provide and the data collected during the work of the inquiry?

Your interview, if recorded, subsequent to the writing of a minute, will be deleted. We will retain the Minute(s) and use them to build on the final Report.

Unless you consent otherwise, your personal data and information will only be used as outlined in this Participant Information Sheet. Data management will follow the Data Protection Act 2018 (DPA 2018), the UK General Data Protection Regulation (UK GDPR), and SYMCA's internal policies.

9. Will I be told the results of the inquiry?

You have a right to receive feedback about the overall results of the inquiry. With your permission, we would like to name you as a contributor in the inquiry Report.

10. What if I have any concerns about the inquiry?

If you are concerned about the way this inquiry is being conducted, or you wish to make a complaint to someone independent from the study, please contact the Reference Group at daniel.turner@southyorkshire-ca.gov.uk.

11. I would like to support and contribute to the work of the Inquiry – what do I do next?

You need to fill in one copy of the consent form and return it by email to Paula at enquiries@southyorkshire-ca.gov.uk.

Please keep the summary, information sheet, and a copy of the consent form for your information.

12. What if I would like further information about the work of the inquiry?

When you have read this information, Paula Kohn (enquiries@southyorkshire-ca.gov.uk, 07803698381) will be available to discuss it further and answer any questions.

This information was last updated on 31 October 2023.

If there are changes to the information provided, you will be notified by email.

This information sheet is for you to keep

9.2 South Yorkshire Infrastructure Inquiry – Terms of Reference.

South Yorkshire's Mayor has called for this inquiry to learn lessons from the policy environment that enabled the abrupt closure of Doncaster Sheffield Airport.

The lines of inquiry will be:

- To review the existing legislative, regulatory, policy, and legal framework that enables private owners of regional assets (such as those defined in Local Plans and regional strategies) to close or otherwise dispose of those assets without reference to: stakeholders' views; the implications for wider strategic and economic objectives; or the potential impact on communities.
- To propose reforms to empower local, regional, and national leaders to prevent or mitigate the abrupt closure of such regional assets.

The Inquiry will be led by an independent Chair, supported by a secretariat provided at arm's length by the SYMCA.

Members of the public will be invited to provide written submissions to the Inquiry, and the Inquiry is expected to hold evidence

sessions.

The Inquiry will run from Autumn 2023. The output will be a report to the Mayor of South Yorkshire, who will then determine the regional response.

The Inquiry should conduct its work in such a manner as to avoid any activity that may prejudice ongoing legal and commercial negotiations around the Doncaster Sheffield Airport site itself. A Reference Group of local government officers will be formed to liaise with the inquiry chair to ensure that this is the case.

The Inquiry's focus should be on general lessons we can learn from past episodes and current policies, regulations, or laws to guide future reforms. It should consider the case for reforms that would increase the influence of democratically elected representatives, including council Leaders and Mayors.

Any variation to this Terms of Reference will be subject to the agreement of the Mayor and Leaders."

9.3. Summary note of discussions

“Following public evidence sessions held on Wednesday 3rd January 2024, in Doncaster and in Sheffield , the South Yorkshire Infrastructure Inquiry would like to restate its objectives and scope and provide its Terms of Reference.

The inquiry was called by South Yorkshire’s Mayor Oliver Coppard in 2023, to review the legislative, regulatory, policy, and legal framework around privately held strategic infrastructure and the major operational decisions for private owners of strategic infrastructure, and to offer views and proposed potential reforms that can be taken forward at a local, regional and

national level.

In public meetings and interviews with subject matter experts, Chair Martin McKervey is structuring the Inquiry around three areas of investigation:

1. The different legal and regulatory approaches to managing public impacts of commercial decisions over infrastructure in different domains (airports, the energy system, water);
2. The principles involved in shaping different approaches across types of infrastructure and different markets, with reference to the balance of public interest and commercial incentives; and
3. Opportunities to reform the existing system, including specific legislative, regulatory, or policy reforms that the inquiry ought to consider.

Chair of the Inquiry Martin McKervey said, “[e.g. I am determined and committed to ensuring that this inquiry is open, transparent, balanced, fair, and respectful towards the whole range of views both in and outside the region on what I know is an emotive topic. The Inquiry is not about the closure of Doncaster Sheffield Airport. It is future-facing, concerning infrastructure. It is very important that the inquiry is seen to be even-handed, and transparent, and that I am able to conduct my work outside of party politics.]

Following requests at Wednesday’s meeting, Mr McKervey is pleased to share the inquiry’s Terms of Reference. In the spirit of transparency, we also attach a summary note of Wednesday’s discussions.

While the inquiry remains in its evidence-gathering phase,

we continue to welcome written submissions at infrastructure.inquiry@southyorkshire-ca.gov.uk. As Mr McKervey made clear on Wednesday, he would also welcome further conversations from parties seeking to engage in good faith to inform, help, and assist the work of the Inquiry.

Mr. McKervey confirmed he is aiming to conclude and publish his report early this year, subject to assuring himself that he has given fair consideration to the range of views expressed in and outside of the region.

9.3.1. Summary note: South Yorkshire Infrastructure Inquiry Doncaster evidence session 3rd January 2024

This evidence session was held at Auckley Parish Centre at 10am on 3rd January 2024.

The Chair (Martin McKervey) provided introductory comments setting out the scope and process around the inquiry, as well as the plan for the session.

He stressed his goal was to allow all members of the community to express their views and contributions respectfully, to shape the recommendations of the inquiry report. He noted that a summary note would be taken, but would not attribute views to specific individuals or groups.

The Chair invited attendees to express views on three questions:

1. What is your view on how we might get the balance right between commercial incentives and the public interest?
2. Are there other sectors or other places where perhaps we strike a better balance between public authority and private demand?
3. What should government do to address these situations?

Discussion

Attendees were clear that local, regional and national authorities should be considered 'in scope' by the inquiry.

Attendees stressed the need for long-term perspectives in decision-making, noting that the site of Doncaster Sheffield Airport was formerly a publicly owned asset as RAF Finningley before being decommissioned and sold to a private owner in the 1990s.

Attendees suggested that publicly owned land ought to be offered on long leases rather than sold off outright, to maintain greater public authority control.

Attendees offered a mixed view on public vs private operation of infrastructure assets. The general view in the room was that for many forms of infrastructure – including for example airports – it was most appropriate for private companies to deliver services given their expertise and capabilities; but that we should ensure there are mechanisms for public authorities to intervene if necessary – as in the analogy of the railway franchising system.

Where public ownership is necessary, some expressed views that it ought to be temporary and with a clear 'exit path' to private ownership. Others took the view that private ownership and privatisation itself was a barrier to operating assets in the community interest, calling for UK Government-level intervention.

Some attendees expressed the view that UK public authorities broadly – at a local, regional or national level – tend to run low quality services and should defer to the private sector (citing examples of Nottingham's Robin Hood Energy; others challenging the Stagecoach Supertram's franchising model).

Attendees made repeated references to the example of Mayor Ben Houchen in the Tees Valley, which they perceived as offering a positive illustration of a regional government that was more actively involved in owning and operating infrastructure.

Attendees also recognised that relationships across the public and private sector matter, and that it may not always be easy to distinguish (such as with roads on some sites) what is publicly-owned infrastructure and what is privately-owned; nor to

disaggregate public and private funding sources for infrastructure.

When discussing possible reforms for the future, attendees suggested:

- Learning from the Assets of Community Value system, in which community groups and parish councils can nominate community assets to their local authority. If accepted, when those assets are put up for sale a moratorium is imposed allowing community groups to express interest and attempt to buy the asset themselves.
- Stronger mechanisms in which an incumbent owner might be forced to sell. One attendee pointed to the example of Kent airport closure in the past, suggesting that provided a case for stronger Compulsory Purchase Order (CPO) powers for local and regional government. Others suggested current CPO powers were too restrictive, relying on hypothetical alternative uses that would be incompatible with local preferences as expressed under e.g. the Local Plan.
- Several attendees noted that there is a role for the local planning system in protecting the public interest over privately-held assets such as airports, noting the example of Doncaster's Local Plan requiring the site of Doncaster Sheffield Airport to be used for aviation as a condition for wider development in the area.
- Some suggested the need for a national policy framework for aviation infrastructure, including a register of national assets with a national commitment to protect or promote such assets. Some called for an "OfSTED" style regulator, for the aviation industry and also for public authorities to scrutinise their actions.

- Greater clarity on how funds – such as the regional 'gainshare' pots – are treated differently across different devolved areas, and how these interact with Treasury Green Book and other public value methodologies.
- Many called for greater clarity on the accountabilities and responsibilities of different tiers of government. Some argued that devolution itself was an obstacle to action and that the UK government 'couldn't act' in regions like South Yorkshire; others that authorities at the local, regional, and national level ought to do more to coordinate.

We should also note that several attendees raised their concerns about their perceptions that the inquiry would not be impartial or independent, including criticism of the agenda of the meeting and the scope of the inquiry.

The Chair made clear that he accepted legitimate concerns about organisation and logistics and was open to follow-up meetings where there was demand but rejected characterisations that the inquiry was not able to conduct itself in a fair minded and open way and that it ought to be future-facing.

The Chair closed the session by thanking attendees for joining, repeating his offer to hear further evidence and calling for written submissions to the dedicated inbox at infrastructure.inquiry@southyorkshire-ca.gov.uk. He also offered to circulate the Terms of Reference for the inquiry, at the request of several attendees.

9.3.2. Summary note: South Yorkshire Infrastructure Inquiry Sheffield evidence session 3rd January 2024

This evidence session was held at the Showroom, Sheffield, at 1pm on 3rd January 2024.

The Chair (Martin McKervey) provided introductory comments setting out the scope and process around the inquiry, as well as the plan for the session.

He stressed his goal was to allow all members of the community to express their views and contributions respectfully, to shape the recommendations of the inquiry report. He noted that a summary note would be taken, but would not attribute views to specific individuals or groups.

The Chair invited attendees to express views on three questions:

1. What is your view on how we might get the balance right between commercial incentives and the public interest?
2. Are there other sectors or other places where perhaps we strike a better balance between public authority and private demand?
3. What should government do to address these situations?

Discussion

Attendees recognised that in the UK we already have a range of different existing approaches to regulation, from “more regulated” industries with significant private ownership and management (such as water) to “less regulated” industries. In those “more regulated” sectors, commercial and public interests are regulated through a clearer set of laws, obligations, reporting requirements

and enforcement systems.

Some argued that, while the “less regulated” sectors like aviation may be the natural focus of the inquiry, we shouldn’t necessarily conclude that “more regulated” sectors work better – given widespread public concerns about water, energy or rail.

Attendees recognised that the other option – of public ownership or control – also needs careful consideration as (i) it may be that the capability does not exist for effective management in a given sector in the public sector and (ii) it would raise questions about whether this was an effective use of public money. Attendees recognised that there was a financial question at stake: if something is considered a national, regional or local asset, does that mean tax revenues ought to be used to support it? Or would the public prefer that cost and risk be passed on to users of the infrastructure? The example of Manchester Airport Group, co-owned by local authorities, was raised as an example of effective public sector ownership and operation for a profit.

The question of the different between local, regional and national government was raised, noting that it was not always clear which tier of government was responsible for action; and there was criticism for reducing infrastructure in regions that had reasonably expected increased public investment.

Attendees said there was a case for more central government intervention – given the funding required – but that any intervention should be done in close coordination with local authorities with a long-term stake in the region. However, they noted that the aim of policy should be to prevent infrastructure failing in the first place, rather than debating where to turn when things go wrong.

Attendees also asked about the importance of wider supply chains.

In aviation, for example, the right balance of public and private interest would depend in part on how operators might respond (noting that it was unclear whether they might prefer engaging with local authorities or other private companies).

The Chair closed the session by thanking attendees for joining, repeating his offer to hear further evidence and calling for written submissions to the dedicated inbox at infrastructure.inquiry@southyorkshire-ca.gov.uk

9.3.3. Summary note: South Yorkshire Infrastructure Inquiry Doncaster evidence session 20th February 2024

This evidence session was held at the CAST Theatre, Doncaster, at 6pm on 20th February 2024.

The Chair (Martin McKervey) provided introductory comments setting out the scope and process around the inquiry, as well as the plan for the session.

He stressed his goal was to allow all members of the community to express their views and contributions respectfully, to shape the recommendations of the inquiry report. He noted that a summary note would be taken, but would not attribute views to specific individuals or groups.

The Chair set out that the Inquiry was not limited in scope to Doncaster Sheffield Airport; should be future-facing; and should draw lessons that are applicable in other infrastructure domains and other parts of the country.

The Chair invited attendees to express views on three questions:

1. What is your view on how we might get the balance right between commercial incentives and the public interest?
2. Are there other sectors or other places where perhaps we strike a better balance between public authority and private demand?
3. What should government do to address these situations?

Discussion

The conversation started with a discussion of how we define infrastructure. Discussants noted that it was not always obvious

what was private infrastructure, and what was “strategic”. For instance, private assets such as housing or GP surgeries were cited as potential forms of infrastructure where the negotiating role of local and regional authorities would be important.

Example was given that the national aviation statement focuses almost exclusively on Heathrow, providing a lack of clarity when it comes to local classification of what is strategic.

It was noted that there is no agreed definition (or, accordingly, agreed list) of strategic infrastructure. The National Infrastructure Commission takes a view of national strategic infrastructure based on the UK Government’s stated policy goals; while the UK Government can define Nationally Significant Infrastructure Projects, which are not subject to normal local planning conditions.

When discussing the balance between commercial imperatives and public interest. Attendees recognised that firms have legal duties to their shareholders that require them to prioritise commercial considerations.

They recognised there’s a debate between mandating basic standards and expectations in different sectors (including with a large amount of private sector provision, as in e.g. transport or telecoms), versus allowing the market to address challenges.

Attendees recognised that any changes to ownership structures would likely require compensation, and that market-driven interventions rely on taxes or subsidies that also have a fiscal implication. That raises the question of how far the community is willing to tolerate higher taxes in return for public authorities having the ability to shape markets. Attendees at this meeting agreed that where there is wider social value at stake, in their view there is a case for subsidies; and that the case for subsidies is dynamic, as we are in a world of evolving

challenges around supply chains and resilience.

Attendees raised the question of how we manage energy generation and distribution given the need to scale up electrification over the coming decade, noting that there will be a need for public and private coordination there – and that the UK has struggled with major infrastructure projects for decades. They called for a long-term view (a “thirty year perspective”), shared between public and private partners.

While the group said their preferred model for most strategic infrastructure would be public ownership, they also set out the case for a “golden share”, or some equivalent public authority voice on boards.

Finally, interviewees also noted the importance of avoiding this clash of public and private interests in the first place, by having a presumption against further irreversible privatisation (as opposed to e.g. franchising models).

The Chair closed the session by thanking attendees for joining, repeating his offer to hear further evidence and calling for written submissions to the dedicated inbox at infrastructure.inquiry@southyorkshire-ca.gov.uk.

9.4. Fig. 1 – UK Department for Transport - Flightpath to the future (2022), section 6, page 43: Realising benefits for the UK



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