

DÁIL ÉIREANN

AN COMHCHOISTE UM IOMPAR JOINT COMMITTEE ON TRANSPORT

Dé Céadaoin, 4 Márta 2026

Wednesday, 4 March 2026

Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Grace Boland,	Joanne Collins,
Cathal Crowe,	Mark Duffy.
Ann Graves,*	
Shane Moynihan,	
Roderic O'Gorman,	
Louise O'Reilly.*	

* In éagmais / In the absence of Deputies Pa Daly and Louis O'Hara.

I láthair / In attendance: Deputies William Aird and Gillian Toole.

Teachta / Deputy Michael Murphy sa Chathaoir / in the Chair.

Business of Joint Committee

An Cathaoirleach: The meeting will now briefly go into private session to deal with some housekeeping matters.

The joint committee went into private session at 9.36 a.m.

Sitting suspended at 10.09 a.m. and resumed in public session at 10.13 a.m.

General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion

An Cathaoirleach: The purpose of today's meeting is for the joint committee to discuss the general scheme of the Dublin Airport (Passenger Capacity) Bill 2026. On behalf of the committee, I am pleased to welcome from the Department of Transport, Ms Ethna Brogan, assistant secretary for aviation, and from the airports division, Ms Nicola Hayes, principal officer, Ms Bronagh Treacy, assistant principal, and Ms Cathy Phillips, higher executive officer.

I will now read a note on privilege. Witnesses are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the good name of that person or entity. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against any person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

Deputy Louise O'Reilly, who has been delegated as substitute by Deputy Louis O'Hara, will take Deputy O'Hara's speaking slots. Also, Deputy Ann Graves is deputising for Deputy Pa Daly. We operate a rota system. I will allow members seven minutes each in the first round. Hopefully, we will have a follow-up round of approximately three minutes each. If at any stage witnesses wish to take a break, they should let me know and we can facilitate a short break.

I welcome Ms Ethna Brogan and the officials from the Department to today's session as we commence pre-legislative scrutiny of the Dublin Airport (Passenger Capacity) Bill 2026. It is a significant and complex proposal. It seeks to empower the Minister to revoke or amend the long-standing 32 million passenger cap planning condition on Dublin Airport and to prevent future passenger caps being imposed by planning authorities. Members will be aware that the 32 million passenger cap was attached to a permission granted in 2007 and 2008 by what is now An Coimisiún Pleanála, primarily due to surface access constraints at the time.

The programme for Government commits to working with stakeholders to lift the cap as soon as possible. The legislative route proposed is unusual in that it intervenes directly in an existing planning condition. The committee's role is not to debate aviation policy in the abstract and not to pre-empt a planning decision. Our task is to engage in pre-legislative scrutiny. To date, we have received 136 submissions, all of which will be uploaded to the committee's MS Teams platform by close of business today. The submissions are from tourism organisations, NGOs, regulatory and administrative bodies, residents groups, airline and airport

representative bodies, and various business organisations. We will engage with all of those that sent in submissions over the next four to six weeks.

I invite Ms Brogan to make her opening statement on behalf of the Department of Transport.

Ms Ethna Brogan: I thank the Chair and committee members for the invitation to brief the committee on the general scheme of the Dublin Airport (Passenger Cap) Bill 2026 as part of the committee's pre-legislative scrutiny of the general scheme.

As the Chair alluded to, there is a planning condition in place that limits passenger capacity at Dublin Airport to 32 million passengers per annum. This condition was imposed by An Coimisiún Pleanála, known at the time as An Bord Pleanála, as part of the planning decision for terminal 2 in 2007 and the extension works to terminal 1 in 2008. As the Cathaoirleach also alluded to, the main reason for the planning condition related to surface access capacity constraints around the airport at the time.

There has been intense scrutiny and widespread commentary on this issue, which has given rise to a number of legal challenges in a domestic and international context. Members will have seen from the background briefing document that this is a complex matter with many interlinkages across domestic planning law, EU environmental law and EU aviation regulations.

The programme for Government includes a commitment to work with stakeholders to achieve the objective of lifting the passenger cap at Dublin Airport as soon as possible. On foot of that commitment, the Minister for Transport met with stakeholders throughout 2025 and sought extensive legal advice from the Office of the Attorney General on options to address the passenger cap planning condition. While the Dublin Airport Authority, DAA, has statutory responsibility for the development of Dublin Airport and has sought planning permission through its live infrastructure application to increase the passenger cap to 40 million passengers per annum, the Government decided that a legislative approach should be pursued to address the passenger cap in parallel.

The Government decision took into account the strategic importance of Dublin Airport as our primary international gateway, the contribution it makes to our economy, the need to maintain international connectivity and employment and the need to ensure the sustainable growth and development of the airport. In September 2025, the Minister secured Government approval to pursue a legislative course of action and since then, along with Department officials, we have been working closely with the office of the Attorney General to progress a general scheme. The Minister secured Government approval on 10 February for the legislative approach to be taken to address the Dublin Airport passenger cap planning condition, as set out in the general scheme, and to proceed to the formal drafting of a Bill.

The approach taken in drafting the general scheme was, first, to keep it as narrow and focused as possible to meet the objective of the programme for Government commitment to address the planning condition; second, to ensure the DAA's infrastructure application can proceed through the planning system to decision; and, third, to ensure any action taken under the legislation is in compliance with EU law. It is recognised that a further phase of work may be necessary to consider the most appropriate future planning framework for Dublin Airport more broadly.

The Minister has also sought to ensure the sustainable development of the airport, while balancing the legitimate rights of residents living within the environs of the airport with the objectives of Ireland's national aviation policy and the needs of business and tourism.

In drafting the legislation, consideration has been given to the complex regulatory environment within which this matter needs to be addressed, including the independent statutory roles of the DAA, the planning authorities, the noise regulator and the aviation regulator. The general scheme gives the Minister the power to make an order to revoke or amend the passenger cap planning condition and to preclude any future caps being imposed by the planning authority.

There are 12 heads in total. The first three heads are standard preliminary provisions. Head 4 provides that Fingal County Council and-or An Coimisiún Pleanála are precluded from placing a passenger cap at Dublin Airport as a planning condition in the future. This is to avoid a repeat of the situation we are now in. This head also makes provision for consequential amendments to the Aircraft Noise (Dublin Airport) Regulation Act 2019.

Head 5 provides the Minister with the power to make an order to revoke or amend the passenger cap planning condition in the public interest and the steps to be followed by the Minister in making, and following the making of, an order.

In line with requirements under EU law, heads 6 to 9, inclusive, provide for screening and, if necessary, full environmental assessments to be undertaken before the Minister can make an order to revoke or amend the passenger cap planning condition. An Coimisiún Pleanála will be responsible for carrying out any necessary environmental assessments. The Minister will take the outcome of those assessments into account and will incorporate into an order any measures that may be deemed necessary to mitigate the impact on the environment.

In relation to noise assessments, head 10 is in line with the approach taken in EU Regulation 598/2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports. This means that any noise assessment can be undertaken following the making of an order by the Minister for Transport. It is worth noting that the aircraft noise competent authority is currently carrying out a noise assessment for an increase in passenger numbers, to up to 40 million passengers per annum, as part of the assessment of the DAA's infrastructure planning application.

Head 11 provides that the validity of an order may only be questioned by way of judicial review which must be taken within eight weeks. Finally, head 12 provides a derogation from section 15 of the Climate Action and Low Carbon Development Act 2015.

As I mentioned, in drafting the general scheme, one of the key aims has been to protect the DAA's live infrastructure application to enable it to proceed to decision by the planning authority. This application, which was submitted to Fingal County Council in December 2023, seeks permission to increase the passenger cap to 40 million passengers per annum but it also seeks permission to build the associated infrastructure required to facilitate passenger growth. This includes new aircraft piers and stands and a new integrated transport hub which will incorporate the new MetroLink station.

Overall, the interconnection between the general scheme to revoke or amend the passenger cap planning condition, EU environmental regulations and Ireland's planning regime is a

complex one and therefore poses a considerable legislative challenge. I am happy to take any questions members may have in relation to the general scheme.

An Cathaoirleach: I thank Ms Brogan for her opening statement. I am conscious of time. We will go straight to questions from members.

Deputy Roderic O'Gorman: I will start by looking at head 12. Our climate Act contains a key section that requires every body of the State to undertake its functions in a manner that is compatible with our climate obligations. We saw the importance of that section of the Act in the recent Supreme Court decision on Coolglass. It is very much the lynchpin of the climate Act and our overall efforts to reduce our emissions. Head 12 of this Bill is a sweeping carve-out of that section, one which undermines our response to climate change and effectively permits things to happen under this Bill that would otherwise contravene the State's obligations under the climate Act. Will Ms Brogan explain why head 12 has been put into this legislation?

Ms Ethna Brogan: First, international aviation emissions are outside the scope of the climate action plan targets, as I am sure the Deputy is aware. An important point here is that the passenger cap, as currently in place, is not a targeted climate measure. However, the Minister is committed to balancing the clear benefits of the aviation sector with sustainability actions and has ensured that the legislation integrates environmental assessment and mitigation into decision-making in advance of making an order. There are a number of actions being taken internationally, particularly under the International Civil Aviation Organization, ICAO, basket of measures to address international-----

Deputy Roderic O'Gorman: If Ms Brogan does not mind me coming in, I am aware of that. If our international aviation emissions are outside the scope of climate action, as they are, and the passenger cap is not a specific climate measure, which it is not, why then is there a need to exclude the application of the climate Act? If aviation emissions are already not considered here, why do we need to take this step?

Ms Ethna Brogan: It is for the avoidance of doubt. On the basis of legal advice, we have decided to include a derogation.

Deputy Roderic O'Gorman: On that avoidance of doubt, did the Department ask for that clarification or was that advice it received from the Office of the Attorney General?

Ms Ethna Brogan: We have received so much legal advice on this that I cannot recall if we asked specifically.

Deputy Roderic O'Gorman: I ask Ms Brogan to come back to me on that point in writing. I am concerned because I notice an almost identical provision being put into the legislation dealing with the strategic gas reserve, which will come from the Department of climate. There is a slightly different phraseology used in the text here. Is that deliberate?

Ms Ethna Brogan: Obviously, this will have to go through formal legal drafting. It is just the general scheme at the moment. The Office of the Parliamentary Counsel is looking at the formal legal drafting. The current wording will be finessed and finalised in that context.

Deputy Roderic O'Gorman: Has this provision been put in because the function or process to adjudicate whether removing this cap would have climate impacts would take too long and elongate a process that the Department wants to be short, or is it because the Department felt

that there was a risk of a subsequent judicial review of whether the action is compatible or not with the climate Act?

Ms Ethna Brogan: I think both scenarios apply. Obviously, there are strong feelings about this issue on both sides – those who wish to see the cap removed and those who wish to see it remain. However, I repeat that the cap was not introduced as a targeted climate measure. Traffic at Dublin Airport has been growing. Our other airports have been growing traffic as well. There are no caps in place there because, as I said, international aviation emissions are outside the scope of the climate action plan targets.

Deputy Roderic O'Gorman: Does any climate analysis take place? Is it correct that no climate analysis will take place on this decision if head 12 is maintained in the legislation?

Ms Ethna Brogan: The environmental impact assessments for both the water framework and habitat directives will be screened by An Coimisiún Pleanála. Screening assessments will be undertaken and, if necessary, full---

Deputy Roderic O'Gorman: They will not be climate-based assessments. Am I correct?

Ms Ethna Brogan: Yes. Full environmental assessments will then be undertaken, if they are assessed necessary by An Coimisiún Pleanála.

Deputy Roderic O'Gorman: Head 11 provides for judicial review of a decision and a timeline within it. Head 12, therefore, means a judicial review cannot take place on climate grounds. There will be a range of reasons that people might take a judicial review on this case.

I am just not clear on why, out of all of them, the climate ground is being explicitly excluded. Why was climate explicitly excluded as a ground, which is a consequence of head 12?

Ms Ethna Brogan: Because it has the derogation. There is a derogation from the climate Act.

Deputy Roderic O'Gorman: I am just wondering why the single issue of climate was excluded. Judicial review of a decision on the cap is provided for here under head 11. Head 12 means a judicial review on the basis it breaches the climate Act is not possible. I am wondering why the choice was made by the Department that climate be excluded as an issue for judicial review while compatibility with EIA and anything else is okay.

Ms Ethna Brogan: I am sorry; I will just consult my colleague.

Deputy Roderic O'Gorman: Yes.

Ms Ethna Brogan: It is to mitigate the risk really. As I said, judicial review is provided for and the timeframes within which the judicial review must be taken. Then the specific derogation has been included on the basis of legal advice as well.

Deputy Roderic O'Gorman: Has Ms Brogan's Department done an analysis that indicates that if head 12 was not included there would be a strong chance the actions taken under the removal of the cap would breach our obligations under the climate Act? Has the Department done some analysis that caused it to put head 12 in as a protection against a particular judicial review on a climate ground?

Ms Ethna Brogan: No, we have not done that analysis.

Deputy Roderic O'Gorman: Okay. I thank the Cathaoirleach.

An Cathaoirleach: Deputy O'Reilly is substituting for Deputy O'Hara.

Deputy Louise O'Reilly: Go raibh maith agat, a Chathaoirligh. I thank you for facilitating my attendance. I thank our witnesses for the information they have given us. I request, a Chathaoirligh, that the residents' group from St. Margaret's and The Ward be facilitated with a hearing at the committee. They have made a submission and have many people in their ranks who have become quite expert on this because they have had to become experts. They have very valuable information the committee could greatly benefit from hearing.

I have a couple of questions about the heads but also about the background briefing document we got. Head 5, which is on page 4 of the document I have, says the proposed legislation also precludes the imposition of further passenger caps as planning conditions. Then it says under head 5 that the Minister has the power make an order to revoke or amend a planning condition that limits passenger capacity where certain public interest grounds are met. My question is: how are these great powers that are to be given to the Minister going to be balanced? How is the voice of my constituents, who I have had the pleasure of representing for ten years as of last week, going to be heard within this? One constituent wrote to me to say that having reviewed the general scheme of the Bill they were deeply concerned that it provides the Minister for Transport with the power to revoke the existing passenger cap while offering no equivalent statutory protection to communities already experiencing significant aircraft noise. The constituent said the legislation appears structured to prioritise expansion without ensuring existing impacts are properly addressed. As the officials will know well given they work in the Department of Transport, there are issues and my constituents have had issues for a very long time. They do not see themselves reflected in this legislation. They do not see their voices or how they are going to be taken into consideration. I ask the officials to address the engagement piece and how that is going to work, going forward.

Ms Ethna Brogan: First of all, the live planning application currently before Fingal County Council that the DAA lodged in December 2023 is currently reviewed by the aircraft noise competent authority, ANCA. I understand a draft decision will be published by the ANCA around the middle of the year. That will be subject to public consultation under the provisions of the 2019 Act and then-----

Deputy Louise O'Reilly: I am sorry but specifically in relation to this legislation that we are considering-----

Ms Ethna Brogan: Yes, so there is that planning process that is under way-----

Deputy Louise O'Reilly: And they aware of that but specifically on this.

Ms Ethna Brogan: On foot of the information provided by the DAA that will be applied to ACP, which will screen for assessments under this order then, as I said, it is the environmental impact assessment directive, the water framework directive and the habitats directive. Where full assessments are required these will be subject to public consultation in accordance with the requirements of those directives. Where any of those assessments determine conditions need to be included in an order to prevent or reduce impact on the environment the Minister will then incorporate those mitigation measures into any order he makes, so there will be public consultation as part of those assessments as well.

Deputy Louise O'Reilly: That is the sequence then. The assessments will take place, then the public consultation and all that will be incorporated into the Minister's decision.

Ms Ethna Brogan: Yes.

Deputy Louise O'Reilly: Can I be a bit cheeky and ask what if, as a result of one of those impact assessments, the recommendation is a limit on the capacity? That is quite possible. It is very possible. On the one hand the officials are saying there will not be any passenger cap and the capacity will not be limited in any way but on the other they are saying they are going to take cognisance. Would I be right then in saying cognisance will only be taken of a certain number of recommendations or in the event a recommendation is that capacity be limited would the officials envisage that being incorporated into the recommendations of the Minister?

Ms Ethna Brogan: The power the Minister would be given through the Oireachtas will be to revoke or amend - that is what we are proposing - the existing planning condition. Depending on the outcome of those planning assessments - and we are dealing in hypotheticals here - it is possible there may be some further limit necessary. That is why we have both provisions, namely, revocation or amendment, in the Bill because we obviously cannot prejudge-----

Deputy Louise O'Reilly: The amendment could be a limit.

Ms Ethna Brogan: Yes. We obviously cannot prejudge the outcome of those environmental assessments.

Deputy Louise O'Reilly: Okay. I refer to head 10, which is on page 12 of the document I have. It is the fourth bullet point. It says ANCA has adopted a noise abatement order, NAO, for Dublin Airport which is to limit and reduce the long-term effects of aircraft noise on health and quality of life, particularly at night, as part of the sustainable development of the airport. On the NAO, I think I might be the only Oireachtas Member present who was here in 2019 when the ANCA legislation went through. My party opposed the legislation but as part of the arrangement at the time Fianna Fáil and Fine Gael supported it and I cannot for the life of me imagine why. If the ANCA makes an order, and that order is that the only way it can protect health and safety - let us be honest the authority is there to protect the health and safety of the people who live in the environs of the airport - is to reduce the numbers where would this legislation sit then, in terms of the obligation on the Minister?

Ms Ethna Brogan: I ask my colleague, Ms Treacy, to address that.

Ms Bronagh Treacy: Typically with the ANCA, for noise it would deal with aircraft movements, which could possibly result in the number of passengers. We would not typically see the noise regulators saying the airport cannot have that number of passengers. It would typically reduce the aircraft movements and that could impact on the number of passengers who could be using the airport but that can sit along with what the Minister is doing here. He is specifically going in for this planning condition. He is not planning on touching anything the ANCA is putting in place.

Deputy Louise O'Reilly: But that is my point. If the ANCA recommends, because there is no other option open to it, that there be a reduction, then where does this sit with the Minister?

Ms Bronagh Treacy: The Minister will only be dealing with the 32 million passenger cap. We would not envisage the ANCA coming along and putting in a similar cap. It would be to do with aircraft movement, which is slightly different.

Deputy Louise O'Reilly: That could have the effect of reducing the number of passengers.

Ms Bronagh Treacy: It could have the effect of reducing the number of passengers. It could have the effect but they are two slightly different things.

Deputy Louise O'Reilly: They could end up being very the same though if-----

Ms Bronagh Treacy: They could have the same effect, absolutely, but-----

An Cathaoirleach: Thank you.

Ms Bronagh Treacy: -----in terms of what it would actually look like it would be too different things, if that makes sense. Is that okay?

Deputy Louise O'Reilly: Yes. Thank you, a Chathaoirligh.

Senator Joanne Collins: I thank the officials for being here and for the opening statement. I have one or two brief questions. If it the CJEU was to come back and say the 32 million was a relative constraint how quickly would the IAA have to reverse the capacity and remove the slots?

Ms Ethna Brogan: As the Senator is probably aware, the Advocate General issued an opinion in this case in February. That has to be confirmed by the full court. We expect that decision over the course of the summer. Those questions were referred by the Irish High Court on foot of proceedings taken against a decision by the Irish Aviation Authority to take account of the passenger cap when it was setting slot capacity parameters for the winter 2024 and summer 2025 seasons. The matter has to come back to the High Court first.

Senator Joanne Collins: Is the Department hoping that will be solved before it goes ahead with increasing the cap? Is there a possibility of that?

Ms Ethna Brogan: It is a matter for the court to decide. Obviously, we are not a party to these proceedings. The proceedings were taken by the airlines against the decision of the Irish Aviation Authority, but the CJEU's responses to the questions will have to come back to the Irish High Court. The High Court will then have to consider them. The Advocate General's opinion seems to suggest that the Irish Aviation Authority legitimately took account of the 32 million passenger cap as a relevant constraint. It will be setting capacity parameters for the airport for the summer 2027 season in about October of this year. It depends on when the matter comes back before the High Court and, indeed, on what the court says at that time. If we think about how the airline industry works and how far in advance airlines sell tickets, it is possible that while they may not have their schedules published fully or slots agreed for the 2027 season-----

Senator Joanne Collins: There could be a time lapse between the decision and enacting. In a worst-case scenario where it comes back, the cap is lifted and then it is stated that we need to bring it back down, is there a possibility of the airlines incurring a liability if we have to cut their slots or alter them in any way? Has that been taken into account?

Ms Ethna Brogan: That is obviously a matter for the courts.

Senator Joanne Collins: So, it would not fall under-----

Ms Ethna Brogan: The Advocate General's opinion has for the first time confirmed - it has yet been confirmed by the court - that it is possible for local planning considerations to be taken into account when setting capacity parameters at the airport. This means that it is technically possible for the Irish Aviation Authority, which is the competent authority when it comes to slots, to take account of that and, therefore, to reduce capacity in accordance with the EU slot regulation. Any decision that might be taken to do so - again, this is hypothetical - would have to be done in accordance with the EU slot regulation. It will be done in a balanced way *pro rata* across all the operators at the airport.

Senator Joanne Collins: I am conscious that we live on an island. There is one way in and one way out. We have to have those links. I see how busy Dublin Airport and the roads around it are. I can understand the residents being the way that they are when it comes to the volume of traffic and the amount of noise. Has the Department looked at increasing capacity at our regional airports? Investment is going into Shannon Airport at the moment. We have capacity for another 2.5 million passengers to go through Shannon Airport. That would take a bit of pressure away from Dublin. If we look at the statistics, we can see that over 85% of passengers fly into Dublin every day. A huge proportion of those people travel on to Clare, which is where Shannon Airport is located, and other tourist destinations. If we were to build up our regional airports - Cork, Shannon and Knock - more, it might work in everyone's favour.

Ms Ethna Brogan: Absolutely. The Government is strongly supportive of the regional airports and of growth at those airports. All our airports have been performing really well over recent years. There has been significant growth at Shannon, Cork, Kerry and Knock, which is great to see. The airlines have been increasing capacity there, particularly Ryanair. It has a number of aircraft based at Cork, Shannon and Knock. Through the regional airports programme, the Government is supporting the development of the regional airports. Just last week, the Minister announced the new programme for the period 2026 to 2030. There will be €45 million in investment available over that period for our regional airports. Shannon Airport will be within the scope of that, because we have increased the eligibility threshold from 1 million passengers per annum to 3 million.

Ultimately, it is a commercial decision for airlines as to where they fly-----

Senator Joanne Collins: It is. I get that. Is there a way that we can incentivise to get them to use the regional airports?

Ms Ethna Brogan: There is. Under our tourism policy, there is a strategic air access fund for new routes-----

Senator Joanne Collins: And I get that it is a business decision on their side as to whether they take it.

Ms Ethna Brogan: Through the combination of the operational and capital supports that are available under the regional airports programme from our Department, under the strategic air access fund and from a tourism perspective, there is a lot of support available for the regional airports to encourage the airlines to start new routes from those airports. However, it is ultimately a commercial decision for the airlines.

Deputy Grace Boland: The witnesses are very welcome. As a TD for Dublin Fingal West - the constituency where it is located - I am acutely aware of how important the airport is, not only for our country but also locally in the context of employment. It provides access to the world for us. We all want to see it thrive. At the same time, Ms Brogan acknowledged in her statement that this has to be balanced with meeting the needs of the communities in the areas around the airport and ensuring that the airport and the DAA constructively engage with those communities - that has been lacking, if I am being honest - and are good neighbours to them.

Ms Brogan mentioned the ANCA assessment. The process in this regard has been quite protracted. What is the status of the assessment? When will it be published? Does the Department expect that it will be completed and published before any ministerial order is possibly made under the Act?

Ms Ethna Brogan: My understanding is that in the context of the assessment it is carrying out on the DAA planning application for increasing the cap to 40 million and the construction of new infrastructure, ANCA will publish a draft regulatory decision around the summertime.

Deputy Grace Boland: Has the DAA provided all the relevant information?

Ms Ethna Brogan: Yes.

Deputy Grace Boland: Everything has been provided.

Ms Ethna Brogan: The application was lodged in December 2023.

Deputy Grace Boland: I know all of that. The original cap was put in place in relation to surface infrastructure. I am not really sure that the issue around surface infrastructure has been adequately addressed. Are the traffic assessment and modelling included in the various environmental assessments that would be contemplated under the proposed legislation, if eventually enacted?

Ms Ethna Brogan: It will certainly be considered by Fingal County Council in the context of the current planning application. It takes account of traffic and the traffic models as part of the planning process. The environmental impact assessments that would be carried out by An Coimisiún Pleanála under the proposed legislation will deal with the environmental issues more holistically and the relevant provisions of each of the directives in turn. It is not specifically traffic related.

Deputy Grace Boland: Would an environmental assessment take into consideration any pollution from road traffic?

Ms Ethna Brogan: Yes.

Deputy Grace Boland: This is the first that the committee has had an opportunity to discuss aviation. I have been waiting to ask a number of these questions for quite some time. Head 4 states:

Notwithstanding the provisions set out in Part III of the Act of 2000, section 4 of the Act of 2019 and Part IV of the Act of 2024, the Minister may revoke or amend a planning condition.

However, it does not specifically set out what is contained in those Acts.

Is "revoke or amend a planning condition" solely in relation to a passenger cap and no other planning condition?

Ms Ethna Brogan: It is intended to be. The language there will be refined further during the-----

Deputy Grace Boland: It is very broad right now.

Ms Ethna Brogan: It is very broad, admittedly. It is linked to the definition in the definitions section and will be refined further during the-----

Deputy Grace Boland: It should be a recommendation from the committee that it needs to be tightly drafted. It should allow the revocation or amending of all planning conditions.

If the DAA's information application is approved, can Ms Brogan confirm the DAA will fully self-finance delivery of that infrastructure at Dublin Airport and will not be looking to the State?

Ms Ethna Brogan: Absolutely. The DAA is a fully commercial semi-State body. Apart from Covid, there has never been capital or operational funding provided to the DAA. It has been extremely commercially successful in recent years. It had revenues of over €1 billion in the 2023 financial year and made profits of €260-plus million.

Deputy Grace Boland: What is the status of the plans for a road from the M2 into the back of the airport to alleviate pressure on the M50 and M1? Is the DAA working on that?

Ms Ethna Brogan: I am afraid I do not have details on that but I can find out from TII or Fingal.

Deputy Grace Boland: Those of us living in north County Dublin are very conscious the M50 is at capacity. The tailbacks from the M1 at the airport to the M50 can be phenomenal. With increased passenger traffic to the airport, looking at other access routes is essential if we want the airport to thrive. If the road artery infrastructure is clogged up, it will not thrive.

Ms Ethna Brogan: I can find out from TII and Fingal County Council what measures may be proposed for congestion on those routes. It is a matter for TII and Fingal in the first instance.

Deputy Grace Boland: It is also a matter for the DAA. It is supposed to be putting in place bigger and improved bus infrastructure. That is essential. If we want the airport to thrive, that has to be in place.

One of the big issues for residents is flight paths. I have never been able to get a clear answer as to who sets and enforces flight paths. What happens if they are not being adhered to?

Ms Ethna Brogan: We have received a lot of correspondence on this matter from residents since the north runway opened. It is a mixed bag in terms of responsibility but, ultimately, the DAA, as operator of the airport, is responsible for the design and maintenance of flight paths into and out of the airport. That is the legal position. The DAA obviously does not have expertise in the design of flight paths so AirNav Ireland, which is the air navigation service provider that provides on-route and terminal services at the airport, carries out the design

function on behalf of the DAA. Any flight paths or instrument flight procedures proposed are subject to approval from a safety perspective by the Irish Aviation Authority.

Deputy Grace Boland: What about non-adherence then?

An Cathaoirleach: I thank the Deputy. She can come in in the second round. I will take my slot now.

This is an extremely significant proposal, and very complex. There are so many different layers of complexity. It is an unusual step. We are proposing legislation to override a planning condition. To somebody suggesting this creates a precedent for ministerial override in other planning contexts, what does Ms Brogan say?

Ms Ethna Brogan: It is very complex and challenging legislation and a significant step for the Government to take. In drafting the legislation, we attempted to focus it as narrowly as possible on this single planning condition - the 32 million passenger cap. The Government recognises the continued existence of the cap - while there is a live planning application to remove it - is harming connectivity, potentially, causing reputational damage to the country, could impact employment, etc.

An Cathaoirleach: Why not raise the cap rather than abolish it completely?

Ms Ethna Brogan: We do not know the outcome of the environmental assessments yet. The legislation will give the Minister the power to make an order to either revoke or amend the cap, depending on the outcome of the environmental assessments.

An Cathaoirleach: The Advocate General's opinion was issued in February 2026. Was that the first the Department heard or did it get notice from the Advocate General in advance of the formal public issuing of the opinion?

Ms Ethna Brogan: We did not get advance notice but the State made a submission to the hearing.

An Cathaoirleach: I understand that. When everybody heard, that is exactly when the Department heard. The Minister did not receive any advance communication.

Ms Ethna Brogan: No. That would be normal practice for the European court.

An Cathaoirleach: I understand that decision is not binding but the courts, in the vast majority of cases, follow it. The court almost always follows the opinion of the Advocate General. When is the court likely to make its formal ruling on that? Is it before the end of this year?

Ms Ethna Brogan: It would be well in advance of the end of this year. In the normal course, we would expect a ruling of the full court to follow about four months after an Advocate General's opinion.

An Cathaoirleach: Assuming the court follows the advice of the Advocate General, what are the implications if we do nothing in terms of legislation? If we were not having pre-legislative scrutiny this morning and were doing nothing, what would be the implications?

Ms Ethna Brogan: The European court ruling arises from proceedings taken by the airlines against the decision of the Irish Aviation Authority on slot allocation at Dublin Airport.

Because Dublin Airport is quite a congested airport, airlines cannot just get a take-off or landing slot any time they want; they are heavily regulated and there is a detailed allocation methodology to be followed by an independent co-ordinator.

An Cathaoirleach: I understand all that. I want to understand the implications if we do nothing.

Ms Ethna Brogan: If we do nothing, the European court ruling on the interpretation of the EU slot regulation will come back into the Irish High Court because the High Court referred those three questions to the European court for interpretation. Then it will be a matter for the High Court to rule on those proceedings.

An Cathaoirleach: Assuming the High Court rules on the basis of the ruling by the European courts, what are the implications? I know there are a lot of ifs here, but normally one follows the other.

Ms Ethna Brogan: The worst-case scenario is the Irish Aviation Authority would decide to reduce slots so the airport can comply with the 32 million cap. That would mean a reduction of approximately 4.5 million passengers on the 2025 figures - there were 36.5 million passengers at the airport last year. In that scenario, the IAA could force airlines to reduce the number of services at the airport in a way that would allow the DAA to comply with the 32 million cap.

An Cathaoirleach: Did I see a call from a representative body of European airlines or Airlines for America, pressing the Government to fast-track this legislation so that the airlines may, in fact, withdraw their case from the European court because of impacts on European airports?

Ms Ethna Brogan: The interpretation of the European court, when it rules, will apply-----

An Cathaoirleach: To all airports

Ms Ethna Brogan: -----in any other similar cases that might be taken concerning the EU-slot regulation. The EU-slot regulation has application at all European Union airports which are congested. What the Chair is referring to is a complaint that Airlines for America has lodged with the American Government, alleging that the decision is contrary to the EU-US Open Skies agreement. That is something we refute. There is no harm being done to US airlines at the moment, and in the event that there was a forced reduction in capacity at the airport, that would be done on a *pro rata* basis, based on historic slots which have been operated by the airlines.

An Cathaoirleach: I thank Ms Brogan. I will come back in the second round. I call Deputy Crowe.

Deputy Cathal Crowe: I thank Ms Brogan for being here today and for her opening statement. I have quite a few questions to get through, so I am going to jump straight into it. What is the timeline expected for this legislation to be completed by the Dáil and Seanad and signed into law?

Ms Ethna Brogan: The Minister has obviously indicated that this is a priority for him. It was on the priority drafting list. Therefore, in parallel with the committee's consideration under pre-legislative scrutiny, we are also progressing the formal drafting with the Office of the Parliamentary Counsel. We will obviously take account of any findings the committee may

make in finalising the drafting. The intention is to then introduce it to the Oireachtas as soon as possible, after the committee concludes its work.

Deputy Cathal Crowe: Given that aviation is so seasonal, and we already know in March which flights are going to operate in and out of Ireland pretty much up to September, the industry needs to respond to that. Does Ms Brogan anticipate that this will be law by the end of the year?

Ms Ethna Brogan: The Minister has indicated that he intends to prioritise its passage through the Houses, so yes.

Deputy Cathal Crowe: Under heading 6 on the environment impact assessment, the Minister can seek that the cap be raised. I make the point that in nearly all aspects of public policy in Ireland, the national planning framework and Project Ireland 2040 have to be considered. If we are talking about rail expansion, a roads programme or investment in hospitals, the Government has to have consideration for balanced regional development in all aspects of how it spends public money and plans for the future, for the next decades. It just seems to me that both of those key documents, the roadmaps of where Ireland is going for the next two decades, are stitched into every aspect of public policy. However, from what I can see, they are totally ignored in this. That is wrong because if this island was not anchored to the bedrock that it sits on, if it was a floating island, we would have one side tipping it into the water because it is so overwhelmed with infrastructure, population and even flights, while the other side is struggling. Why is it that that policy is not there? Why is it that the Minister does not have to have consideration for Project Ireland 2040, balanced regional development or the national planning framework? Why are they not stitched in here?

Ms Ethna Brogan: I do not accept that they are not considered here. They are not specifically mentioned. This is specific to Dublin Airport and the general scheme is specific to the planning cap at Dublin Airport. There are other aspects of our aviation policy I mentioned earlier which are very supportive of balanced regional development, and in fact, the *raison d'être* for the regional airports programme is to make sure that the regional airports can operate as effectively as possible and attract as much employment and traffic into the regions as is possible. We have expanded eligibility for that programme in the latest iteration for 2026 to 2030 to include the likes of Shannon Airport. It is growing but it needs support in further--

Deputy Cathal Crowe: I appreciate that but I do not think two key State documents can be subliminally suggested in law. They have to be enshrined in it. They have to be referenced in sections of this Act. I will give an example of how this manifests itself on a day-to-day basis. There is a part of me, as someone from County Clare, that would love the *status quo* to prevail but that is not realistic and Ireland Inc needs the cap to be lifted. I get that. If one of the big airlines applies for landing slots in Dublin Airport, an application goes into the Irish Aviation Authority on D'Olier Street. At the moment, because of the way policy is configured in Ireland, it views that application through a one-dimensional lens. It either approves the application for a new route, or it refuses it. There is no consideration given to balanced or imbalanced regional development.

Today, 13 flights will take off from Dublin to Amsterdam Schiphol. What one flight from Shannon to that vital European hub per week would mean would be incredible. That is 84

services outbound from Dublin to Schiphol while there is not even one to Shannon. That is no fault of the Irish Aviation Authority; it has no remit to judge on that. If we are going to lift the cap on Dublin Airport, that is fine. I think most people would accept that is reasonable but there has to be some advanced regional development. If the likes of one of those big airlines is looking for a certain number of additional services per day out of Dublin, the Irish Aviation Authority should be able to say the legislation states it has to have consideration for balanced regional development, it has decided that 20 services per day out of Dublin is too many and that if the airline wants to run more, the next three or four services have to be siphoned off to Shannon, Knock or Cork. We would then be getting something in there. It would be a small clause. It would allow for the cap to be lifted but it would also ensure there is a little bit of fall back. Shannon is a great airport but it is reduced these days to sun holidays and flying people out of Ireland. It is not adding the economic value that it should in the region. We will only get that when we stitch smart policy into this new legislation.

Ms Ethna Brogan: This legislation only deals with the passenger cap; it does not deal with the allocation of slots more broadly. The allocation of slots is governed by EU law, and that is just at congested airports. The Irish Aviation Authority's role as competent authority under the EU slot regulation only relates to allocating take-off and landing slots at Dublin Airport fairly among those who want to operate at the airport.

Deputy Cathal Crowe: It has a huge consequence for the other airports. That is why I suggest a simple clause saying that at a certain point – I am not talking about refusing landing slots straight up as that is illogical - where there are 17 or 18 services per day from Dublin to Schiphol, it would be reasonable to say we are invoking a clause on balanced regional development and that having consideration for Project Ireland 2040 and the national planning framework, we insist that slot be moved to Shannon, Cork or Knock because that is what balanced regional development is like. It is what all other State bodies have to adhere to. It cannot be subliminal in this legislation. It has to be intrinsically written in here for the Minister of the day, whether the Minister is my colleague or a future Minister, to protect the other regions and airports. I will come in again later on this.

An Cathaoirleach: Deputy Graves is substituting for Deputy Daly.

Deputy Ann Graves: I am delighted to get the opportunity to talk to our witnesses today. I represent the Fingal East area, which includes Swords, Malahide, Portmarnock and Donabate; the areas which are worst affected by noise in particular. That is where I am coming from. I was also a councillor in Fingal County Council and fought long and hard in terms of the conditions that went along with the planning.

Head 5 states that those planning applications that are already in the process will remain. Does that include the current cap and the conditions that align to that and the relevant action? Will they continue through the process? As we know, there are four cases in the courts at the moment. Some are Fingal County Council's cases while some are the residents. I am wondering what the process is around that, bearing in mind the DAA has never stuck to the cap that was in place.

Ms Ethna Brogan: On the other planning applications, we refer to the planning application currently being considered by Fingal County Council and the Aircraft Noise Competent Authority, ANCA, as the infrastructure application. It was lodged by DAA in December 2023.

It sought permission to do two things. The first was to lift the cap from 32 million to 40 million. That was applied for by DAA. The second was to build infrastructure. A number of discrete infrastructure projects are included in that planning application.

Deputy Ann Graves: I understand that, but the current cap, which is 32 million, had conditions around the infrastructure which have not been implemented. People have raised them here. DAA is trying to get Fingal County Council to take over putting in the cycle lanes and infrastructure around the airport. I do not think that will happen. Those conditions remain. They have not been adhered to. The infrastructure that was a requirement for the north runway has not been put in place. Is the situation that we will forget about it or will it continue? That is one of the cases that is being considered.

Ms Ethna Brogan: That will continue. This is only dealing with the 32 million condition.

Deputy Ann Graves: That will stay in place.

Ms Ethna Brogan: It is a single condition, the 32 million cap.

Deputy Ann Graves: Okay. We have no idea how long that will take. How long is a piece of string? Some of those cases have been in the courts for a few of years, certainly since I was on the council. We have no idea what the outcome of them will be.

Ms Ethna Brogan: No, and that is a matter between Fingal County Council and DAA.

Deputy Ann Graves: The second point is that I have major concerns about how this is progressing because it looks as though we will undermine local government and local councillors with the decision being made in the Department. That is what local democracy is about.

I understand this is just the heads of the Bill. It is a kind of summary, if you like, and we will get the meat as time goes by. However, there is not much reference to night-time flights and that is of major concern. Looking at international best practice, someone mentioned Schiphol Airport, where the cap has been reduced, as have the night-time flights because it is well known and proved that flights at night have a massive impact on people's health and well-being. Being woken from sleep affects people's hearts and so on. Will the removal of the cap extend the night-time flights as well? Does that come under it? Is that relevant? Will they stay as they are or will they wait to go through a process?

Ms Ethna Brogan: No, this is dealing only with the planning condition for the 32 million cap. The night-time flights condition is currently being considered by An Coimisiún Pleanála. It made a decision last year in which it proposed the introduction of an annual cap on aircraft movements and, because that is an operating restriction, under the provisions of European law - the so-called balanced approach regulation - An Coimisiún Pleanála was obliged to notify the European Commission of it. The European Commission considered the restrictions proposed by An Coimisiún Pleanála and issued a decision in recent weeks, which was notified to the State and An Coimisiún Pleanála, that An Coimisiún Pleanála had not followed the balanced approach. Therefore, An Coimisiún Pleanála now has to reconsider that decision and tell the European Commission what action it proposes to take that is compliant with the EU balanced approach.

Deputy Ann Graves: Okay. Sorry for rushing. I am watching the clock.

The heads of the Bill state that the Minister can request DAA to prepare the environmental impact assessment, EIA, and appropriate assessment, AA, reports. That is worrying. The Minister should rely on independent data because, heretofore, DAA supplied that information and it has given out-of-date information. More up-to-date information has been requested. It is not independent. Basically, DAA is currently reporting on itself and that is not the way it should be. The noise levels in Dublin Airport have spiralled out of control and the only way to effectively address that is using data to look at the evidence. However, we are not getting the evidence that is needed. That should be done by an alternative body such as Fingal County Council or whatever the case may be, but DAA reporting on what it is doing wrong is not the way to go. Is there a different mechanism?

Ms Ethna Brogan: DAA will be providing the data to the Minister, who will then provide it to An Coimisiún Pleanála. It will come to the Minister first and then An Coimisiún Pleanála will conduct the assessments, but DAA owns the data. The Minister does not hold data, and nor does the Department, so the origin data for all the relevant scenarios that need to be considered by An Coimisiún Pleanála in conducting these environmental assessments will be provided by DAA through the Minister.

Deputy Ann Graves: ANCA is the noise regulator so clearly it should provide the data. It tests around the airport for noise, emissions and so on.

Ms Ethna Brogan: It has that role independent of what we are doing here anyway, under the 2019 Act.

Deputy Grace Boland: I will pick up from where I left off earlier. The residents want constructive engagement with DAA. They have a few simple requests: that flight paths be adhered to, that homes be insulated to the highest possible level and that this be done quickly and without quibble, without them having to have a row with DAA; and, where necessary and appropriate, like with Dartmouth Square, that certain homes be bought at market value. They also want infrastructure in local communities to be invested in. With so much traffic around the area, some people will use back roads so the roads, paths and community clubs should be invested in. They are the requests of the community and they are not unreasonable requests. I am in favour of lifting the cap and seeing the airport thrive. What role can the Department play to ensure DAA constructively and positively engages with communities?

Ms Ethna Brogan: I thank the Deputy. In his regular engagements with the board and management, the Minister has always encouraged DAA to be a good neighbour and to engage constructively with local communities. A number of measures have been taken. There is a specific community engagement function in DAA. Certainly, he has always encouraged DAA to engage as constructively as possible.

Deputy Grace Boland: There is room for improvement. Communication is the best way to resolve things. High Court actions are expensive, as are judicial review actions. If there is constructive engagement, and people really engage constructively, much of the time those kinds of litigation proceedings and the associated costs and delays can be avoided. Therefore, DAA should really be constructively engaging with its neighbours and I would like to see that happen.

On adherence to flight paths, to pick up a point from earlier, what is the recourse for affected residents when flight paths are not adhered to?

Ms Ethna Brogan: I mentioned the legal responsibilities of the various parties earlier. DAA, as the airport operator, has ultimate responsibility.

Deputy Grace Boland: Yes, I have all that.

Ms Ethna Brogan: Adherence to planning permission is a matter for Fingal County Council as the planning authority. It is for the council to enforce any planning conditions it has attached, including noise contours attached to any grant of planning permission for the north runway.

Deputy Grace Boland: On the flight adherence, in all of these bodies, is there anyone who looks at the flight paths taken on a quarterly or annual basis? I accept that flight paths sometimes have to deviate due to weather events, etc. Is there anyone who looks at the flight paths taken and reports that on a specific number of times there was adherence to flight paths, with a slight deviation for weather such as easterly or northerly winds?

Ms Ethna Brogan: Could I ask the Deputy to clarify if she is talking about the way the airlines operate on the approved flight paths-----

Deputy Grace Boland: Or not. I suppose that is the point.

Ms Ethna Brogan: -----or she talking about the flight paths themselves?

Deputy Grace Boland: Do we know what the percentage of adherence to flight paths is?

Ms Ethna Brogan: I might ask my colleague to come in on that.

Ms Nicola Hayes: Just to say, the flight paths are monitored for compliance with noise requirements by ANCA. That is a statutory requirement it has in line with the EU Regulation No. 598/2014. It is a role ANCA currently undertakes.

Deputy Grace Boland: Does ANCA assess flight paths?

Ms Nicola Hayes: It monitors them for compliance with noise.

Deputy Grace Boland: Is that included in its annual report?

Ms Nicola Hayes: In the annual report, it reports on the noise abatement objective and how to-----

Deputy Grace Boland: That is only for noise. It is still not giving us information on whether there is adherence to the flight path the planning permission was granted for.

Ms Nicola Hayes: AirNav Ireland also has a role in safety compliance.

Deputy Grace Boland: The witness can see why we get frustrated, let alone the residents. We are going around in circles. We know there is not adherence to flight paths much of the time. It is very frustrating. How do residents actually try to get enforcement and adherence to the flight path? They must go here and there, and we are all going around in circles.

Ms Nicola Hayes: It is a complex matter. When flight paths are being made, a wide range of factors, including a number of complex factors, have to be considered because of the complex operations that entail at the airport. Safety is of paramount importance in terms of the agreed flight paths.

Deputy Grace Boland: Absolutely. No one is saying that the flight path, as agreed, is not the one we want adhered to. The residents want that flight path adhered to. The big issue is that they are concerned it is not being adhered to, and nobody seems to be taking up the mantle to ensure it is.

Ms Nicola Hayes: A number of bodies are involved in flight paths and how they are set.

Deputy Grace Boland: It is incumbent upon the Department to try to drive something here. If you have got different bodies, and we are getting nowhere, that is very unsatisfactory. Again, you are going to lose goodwill in trying to make changes around the airport.

Ms Ethna Brogan: Certainly, when the north runway opened in August 2022 there was an acknowledgement that the flight paths' initial standard instrument departures, or SIDs, were not those that had been consulted on previously, and there were adjustments made at the time. You cannot change flight paths overnight; it is a very involved process. DAA initiated a review at the time and consulted the IAA and AirNav Ireland. New SIDs were put forward that were approved by the IAA from a safety perspective, and they came into operation in February 2023. They are more-----

Deputy Grace Boland: How do we know if they are being complied with?

Ms Ethna Brogan: As Ms Hayes said, if they are not being complied with from a noise perspective, ANCA will monitor those SIDs from the perspective of their adherence to the noise contours that were approved.

Deputy Roderic O'Gorman: As a kind of policy goal, does the Department of Transport have a policy on the target number of passengers it wants to see go through Dublin Airport on an annual basis?

Ms Ethna Brogan: No, we do not. Our published national aviation policy, which admittedly is ten years old at this stage, dates from 2015, and there is a commitment in the programme for Government to review that. That is a body of work we are getting under way in the Department. It has never been the case that we would be targeting particular passenger numbers, because after all, it is a fully liberalised market.

Deputy Roderic O'Gorman: Would the Department expect that the same pattern will be repeated in the new national aviation policy? There will not be a target set for Dublin Airport in terms of yearly passenger numbers.

Ms Ethna Brogan: I would not wish to predict what we might arrive at because we will obviously have to consult as part of that policy development process. In the past, we have not set a target.

Deputy Roderic O'Gorman: Let us say the Department does not have a target to reach. However, does it have an upper limit on the number of passengers it would like to see going through Dublin Airport in a year, as a policy?

Ms Ethna Brogan: No, we do not.

Deputy Roderic O'Gorman: It is value-neutral on that point.

Ms Ethna Brogan: Yes.

Deputy Roderic O'Gorman: DAA is now seeking a change to the original condition for 40 million. The Minister, Deputy O'Brien, has cited 60 million as a figure he has in mind over a period of years, bringing Dublin Airport similar to what JFK airport in New York did in 2024. That is not something the Department has a particular view on. Those are matters of the DAA opinion and the political opinions of the Minister. It is not a policy. Is the 60 million figure a departmental policy?

Ms Ethna Brogan: No, it is not. There have been references to 50 million, 55 million and 60 million. DAA, as part of its masterplanning, will be looking at various scenarios but in terms of capacity as opposed to a policy target.

Deputy Roderic O'Gorman: As regards balanced regional development, is any analysis being undertaken of new routes that may have gone to other airports in Ireland but will now go to Dublin Airport when the cap is removed? Is there any risk that new routes will now not go to Shannon or Cork, but will come to Dublin? Is any analysis of that being undertaken?

Ms Ethna Brogan: No, not at present. It is reasonable to assume that where capacity constraints exist, airlines will move that capacity elsewhere. You will have heard the airlines say that decisions on where to position aircraft might not necessarily relate to Cork or Shannon, but could involve Manchester or Birmingham. They will position aircraft on routes that can make the highest return for them.

Deputy Roderic O'Gorman: To turn that around, has the Department undertaken any analysis of whether existing routes going through Cork or Shannon may be rerouted through Dublin if there is additional capacity when capacity constraints are removed? Has the Department done an analysis of whether airlines will make a strategic decision to reduce services in some of our other airports and move them to Dublin?

Ms Ethna Brogan: Respectfully, I would not second-guess airlines regarding commercial decisions they make.

Deputy Roderic O'Gorman: I understand that, but we are making a significant policy change to Dublin Airport. As legislators who believe in balanced regional development, we need to understand if that policy change will have a knock-on consequence on our other airports and on passengers wanting to go through those airports. I would have thought that some element of analysis would be undertaken to see what the knock-on impacts of this might be on the regional airports.

Ms Ethna Brogan: I would portray it slightly differently. What we are doing here is not a policy change. Our policy, as set out in the national aviation policy, has always been to see the sustainable development of Dublin Airport and to support its development as a secondary hub airport. That is policy. This is a planning condition that is coming in place.

Deputy Roderic O'Gorman: Did the national aviation policy specifically reference removing this condition?

Ms Ethna Brogan: No, it was written in 2015 when a breach of the 32 million cap was not on the horizon.

Deputy Roderic O'Gorman: The condition had been in place for eight years at that stage, had it not?

Ms Ethna Brogan: It had, and the DAA as the statutory authority for developing the airport would have been looking at what it needed to do for its future planning.

Deputy Roderic O'Gorman: Was this a matter of concern in 2015?

Ms Ethna Brogan: No, it was not.

An Cathaoirleach: Ms Brogan talked about the role of Fingal County Council. In September 2022, Fingal sent a letter to the DAA citing nine categories of non-compliance. Of those nine, Fingal County Council issued enforcement notices on two. A night-flights enforcement letter was sent in July 2023 and enforcement around the passenger cap was sent in June 2025. The DAA subsequently obtained a High Court order for a stay on the night-time flight notice and the Government's response to the passenger cap notice is this proposed legislation. For reasons I do not know, and we will engage with Fingal County Council in the next number of weeks as part of this pre-legislative scrutiny, the remaining seven categories, including flight paths affecting 30,000 residents, remain unenforced after three and a half years. Separately, when the IAA included the 30 million passenger cap in slot co-ordination parameters for summer 2025, eight airlines and the DAA brought a joint High Court challenge and obtained a stay. As Ms Brogan knows because we spoke about it earlier, the court subsequently referred the matter to the European Court of Justice and on 12 February the Advocate General issued an opinion supporting the IAA on the passenger cap as a valid operational constraint and that slots are not property rights. We obviously await the formal opinion of the court on that.

The reason I read that into the record is it seems to be a persistent pattern that any attempt by Fingal County Council, or any public body, to enforce a lawful constraint or planning condition on Dublin Airport faces litigation, lobbying or legislation to override it. Will Ms Brogan comment on that? I deal with so many issues at the local level, such as enforcement, but Dublin Airport seems to be a law unto itself. Will she respond to that? As I said, our job as a committee is to scrutinise and not to advocate. That is why I asked the question.

Ms Ethna Brogan: In any planning scenario, for the applicant or the person or entity on whom conditions have been imposed by a planning authority, it is a matter for that person or entity to comply with planning. In scenarios where there is non-compliance, it is a matter for the planning authority to take relevant enforcement action. I cannot really comment beyond that.

An Cathaoirleach: As I said, there is a clear pattern that is very consistent in that anyone who attempts to enforce any lawful constraint on Dublin Airport is faced with endless litigation, lobbying and, in this case, legislation to override it.

On infrastructure, there is an argument that the infrastructure is simply not ready and not in place for the cap to be removed. For example, Ringsend was brought to my attention. All of Dublin Airport's sewage, including foul-water tanks from inbound aircraft, drains to the Ringsend wastewater treatment plant, which I note from listening to my colleagues is persistently overloaded and in breach of the EU urban wastewater treatment directive. I know a significant investment of up to €500 million is under way, but it is my understanding that treatment plant will not be ready until 2027. I am saying that the sewage cannot be limited if the passenger numbers cannot be limited. What does Ms Brogan say to that?

Ms Ethna Brogan: Again, it is a matter for the DAA, as the applicant, to ensure it has the necessary planning permission for the infrastructure to support the passengers who will be using that infrastructure.

Deputy Cathal Crowe: I will go back to the line of questioning I was at a short while ago. It was said that the Minister and the Department will have consideration for balanced regional development, yet it is not anywhere in text. Just last month, there was a Supreme Court ruling on *Coolglass Windfarm v. An Coimisiún Pleanála*. It is a whole separate debate but it was very clear. The judge that day referenced the legislation and what is in there on climate action goals. He said that trumps everything else here. Legislation cannot have any subliminal suggestions that the Minister of the day has consideration for Shannon, Cork and Knock airports. It has to be written into and be central to this law.

I will make the point that in 2006, 20 years ago, Dublin Airport had 75% dominance in the Irish aviation market for outbound and inbound flights. That is now up to 90%. Something has to be done here to protect the other airports in the country. It behoves the Government and the Department of the day to protect these other assets. These are State assets. This is not some company operating down in Shannon, County Clare, that we want to do better. It is not that. These are State assets funded by the taxpayer. The reality at the moment is that Shannon Airport, day by day, is only fulfilling about half of the capacity it is able to provide. There is an onus on the Minister and the Department to be sweating all of these national assets before we go looking at overburdening Dublin Airport.

I go back to the points I made earlier that there are two policies. This law is at its infancy stage. We are only on the heads of Bill at the moment, but it has no mention whatsoever that I can see, and I am subject to correction, on the national planning framework and Project Ireland 2040, which need to be in here. The point I reiterate is that today, Wednesday, 4 March 2026, 13 flights are taking off from Dublin Airport destined to Schiphol, Amsterdam, but there are zero flights from Shannon to Schiphol. We dream of having one a week but we have none. Dublin Airport has 84 per week and we have none. There needs to be some consideration in there and it needs to be in law. I have been to D'Olier Street to meet with the Irish Aviation Authority. It tells me its hands are tied. When an application for a landing slot or an airline service goes in, it either approves or disapproves. There is no mechanism at the moment in Irish aviation to have balanced development considered. That needs to be in there.

I will express alarm, having listened to Deputy O'Gorman's questioning, that the Department has done no modelling whatsoever for what this might mean for the other airports of Ireland. The answer was that this is all about the Dublin Airport cap. I respect that, but anything the Department does here has the unintended consequence of lamping more pressure down on top of Shannon, Cork and Knock. I go back to the point that Dublin had 75% dominance in 2006 and it now has 90%. I fear we are going to get to the point that it will make the other airports of Ireland redundant.

I ask, and someone at this committee might second it, that it become a strong recommendation of this committee that Project Ireland 2040, the national planning framework and balanced regional development become strong recommendations from this committee to be stitched into this law. I would like to hear responses from the Department.

Ms Ethna Brogan: If that is a recommendation of the committee, we will obviously take it into account, but I need to reiterate the point I made earlier about the slot allocation mechanism. The Deputy confirmed that the slot regulations only apply to Dublin Airport here. Where there are congested airports and airlines cannot get take-off and landing slots at times they might wish, that is then where the slot regulation comes into effect. It does not allow the Irish Aviation Authority to say you cannot have a 6.25 a.m. take-off slot in Dublin but you can have one in Shannon. The IAA does not have any responsibility for slot allocation at Shannon-----

Deputy Cathal Crowe: It could if you inserted what I am talking about.

Ms Ethna Brogan: No, you could not.

Deputy Cathal Crowe: I have had it checked myself. I have gone off and got legal advice. I have been up and down to D'Olier Street and the IAA tells me that if there were a clause in there on balanced regional development, there would then be a whole different scenario. When an application goes in, the same assessments would be applied to it, but it would have to say at some point to Aer Lingus, KLM or whoever are running so many services in and out of Dublin, and have nothing going to Cork or Shannon, that this rule has to be applied. It should not damage Dublin high up or low down. In fact, it should support what Dublin is doing. It would just apply when we get to a scenario where the cream has to be taken, and a little bit has to be given out to the regions. The Dutch and the Finns are doing it. We cannot have a scenario in Ireland where one side of our country is tipping over because it is so overburdened and the other side is struggling with crumbs. This has to be in the policy.

Ms Ethna Brogan: If the Deputy is talking about what is happening in the Netherlands, that is the traffic distribution rules under Regulation No. 10/2008.

Where conurbations in close proximity, it is possible to redistribute traffic from one airport to another. Shannon and Dublin are not considered to be close under that regulation so we cannot redistribute traffic in the same way as it is being done in the Netherlands.

Deputy Cathal Crowe: Could I get back in for the second round, please?

An Cathaoirleach: Certainly. Notwithstanding the issue at the heart of this discussion, with one airport hosting 85% of all traffic, the overarching concern is that if a critical incident should take place at that airport, it could bring this country to a halt.

Deputy Ann Graves: If flights are diverted from Dublin Airport, they are rerouted to Shannon. There is no reason it cannot be used more.

Earlier, the Cathaoirleach raised the issue of non-adherence to the current cap and the current planning conditions. The current cap does not take stop-over flights into consideration. It literally only applies to flights that are landing at the airport and from which passengers are disembarking. Flights that are landing just to refuel are not taken into consideration. I live approximately five minutes' walk from Dublin Airport if it were possible to walk there. The airport can only grow so much, and there can only be so many flights, cap or no cap. If slots are not available, flights are going to have to go elsewhere. We need to invest in our regional airports, but we also need to consider the residents who currently live beside Dublin Airport. I reiterate what my colleague Deputy O'Reilly said. I urge the committee to invite residents from the St. Margaret's the Ward Residents Group and the FORUM group to come before us. They are the experts. They have been working on this for many years. The witnesses will have seen

the submissions coming in *en masse*. I was at a public meeting last week at which it was standing-room only. That is what happens every time a meeting is held. Residents are really concerned about their health and well-being and the future of their children. They are also concerned because, as we know, the flight paths have changed. Houses that were insulated, no longer need it while. Other houses now need to be insulated because of variations to the flight paths.

We need to get this right. Nobody wants to stand in the way of progress. The airport is the biggest ratepayer in the area wherein which I live, and its investment in the town is crucial. That said, we need to look after the people who live in the area too. Many of them were there before the north runway ever came into being. It is since then that a lot of the problems have arisen. There are real health concerns, and it will have an impact in the future in terms of funding and so on.

The heads of the Bill make no mention of the residents. They do not come into it despite the fact that the Minister has said that he will engage. There has been talk of buy-outs, insulation and so on. When will that engagement take place? Will it follow a review of the submissions? What form will it take? Will there be meetings with people or will there just be a redrafting of what is in the general scheme, with some of the submissions ignored and others taken on board? What type of communication will take place with the people who are most affected by this?

Ms Ethna Brogan: I mentioned at the outset that as well as the legislative approach that is being proposed here, there is a parallel process under way whereby the DAA has sought planning permission for an increase to the cap and for infrastructure as well. I also mentioned that as part of the consideration of that planning application, ANCA is conducting an assessment at the moment and will be issuing a draft regulatory decision, probably by the summer. I am not speaking for ANCA, but I understand it will get to the stage of issuing a draft regulatory decision around the summertime. There will be a public consultation on that draft regulatory decision. That is provided for in the 2019 Act.

In the context of the planning application, there will be public consultation and residents will have an opportunity to have their voice heard through those arrangements and then separately, under the provisions of this legislation, when the Minister is empowered to make the order, he will ask An Comisiún Pleanála to undertake environmental impact assessments under the water framework and habitats directives. Again, in line with the requirements of those directives, if there are full assessments being undertaken by An Comisiún Pleanála, they will be consulted on in accordance with the provisions in those directives. More broadly, the Minister has met with residents on a number of occasions. I am sure he would be open to meeting with them again in the future to discuss their concerns. Residents and other concerned stakeholders will have a number of opportunities to feed into the process before this cap is lifted.

Deputy Gillian Toole: I thank the Cathaoirleach and members for letting me contribute. I also thank the witnesses for attending. I am not a member of this committee; I am an opportunist. The meeting of the disability matters committee finished early, and I saw details on this meeting on the information board. I have met some of the witnesses previously.

I want to raise the voice of County Meath in this conversation. Prior to this, no consultations of any type took place in County Meath. County Meath, particularly the Ashbourne and Ratoath municipal districts, should be included in all upcoming public consultations. I echo Deputy Graves' point about the inclusion of FORUM and St. Margaret's the Ward Residents Group. There is also the North Runway Technical Group, NRTG. It has provided detailed, professional, public, private and commercial pilot-based evidence for the dual runway and the operation of Dublin Airport within the current structures and allowing for an increase in passenger numbers without the need for any amendment to the legislation. Has there been any feedback in relation to the detailed drawings, flight path designs and so on submitted by the NRTG? Was the review of its suggestions outsourced to an agency in Bratislava? Where is that review at?

The current situation with deviant flight paths and unauthorised routes is having an impact on badly needed housing developments in Ratoath and Ashbourne. The DAA has made submissions or observations on some of those large-scale residential developments. Because the noise impact area does not include County Meath, there is no provision being made at present. The builders involved are not including glazing and noise insulation as part of the developments in question. We are creating a perfect storm here when it comes to simple adherence to planning permission. I do appreciate that it is an enforcement issue for Fingal County Council, but, as others have said, it seems that compliance is a necessary requirement for mere mortals but not for the DAA.

Will Ms Brogan repeat what she said in relation to ANCA and public consultation on the draft regulatory decision, possibly in the summertime?

Ms Ethna Brogan: I appreciate the fact that in the context of communities in County Meath, during the consultations that took place a decade or more ago, it was not expected that those communities would be overflown. As a result, they were not consulted during that time.

Regarding the ANCA decision, I reiterate that an assessment is being done in the context of the DAA planning application. ANCA expects to be in a position to issue a draft regulatory decision this summer.

Under the provisions of the 2019 aircraft noise Act, there will be a 14-week consultation or thereabouts on that. Any stakeholder can make an input to that consultation process. When a decision is finalised by the aircraft noise competent authority, ANCA, that is taken account of by Fingal County Council in making its planning decision on the DAA infrastructure application. There will be public consultation as part of ANCA's decision-making process under the 2019 Act.

Deputy Gillian Toole: Will that be extended to Meath or is it Fingal only?

Ms Ethna Brogan: It is an open public consultation.

Deputy Gillian Toole: Okay, so it will be public-----

Ms Ethna Brogan: It is not the same consultation that would have been carried out a decade or two ago. It will be an open consultation.

Deputy Gillian Toole: I thank Ms Brogan. In relation to the north runway technical group and the specificity of flight paths, that meeting took place on 18 or 19 June 2025.

An Cathaoirleach: A very quick reply, please.

Ms Ethna Brogan: On the flight paths, I mentioned that there had been a change in the strategic infrastructure developments, SIDs, between August 2022 and February 2023. The Minister wrote to DAA about a year ago on foot of the representations made by the north runway technical group but the DAA indicated that with so much then at stake in a planning context, if the moving parts kept moving, then it would be very difficult to get a planning decision, so it said it was not planning to undertake a further review at that point in time.

Deputy Gillian Toole: Could a bit of pressure-----

An Cathaoirleach: No, Deputy.

Deputy Gillian Toole: -----be exerted, since it would provide a workable solution to enable an increase in the cap without necessarily going the legislative route? Without infrastructure-

An Cathaoirleach: I thank the Deputy.

Deputy Gillian Toole: I am sorry.

An Cathaoirleach: Ms Brogan might briefly comment.

Ms Ethna Brogan: The point the Deputy is making is about exerting pressure on-----

Deputy Gillian Toole: To exert pressure on DAA to examine what the group says, given that it would be a solution without invoking the full roll-out of legislation and everything else that would be involved.

An Cathaoirleach: I think we will have representatives of DAA as witnesses before this committee as part of our pre-legislative scrutiny and there will be an opportunity for Deputy Toole or any Member of the House then.

Deputy Gillian Toole: I thank the Chair.

An Cathaoirleach: Members of the committee will obviously get preference but those meetings will be advertised well in advance.

I am conscious of time. I want to conclude by thanking the team of officials from the Department of Transport for their engagement. Reflecting on my notes, I think today's engagement highlights the complexity of the issue but it prepares us well for what will be a series of public hearings, beginning on 18 March. I mentioned that somewhere between 130 and 150 submissions had been received. Those submissions are currently being uploaded to the Microsoft Teams platform that all of us, as members, have access to.

I am conscious that our job is to scrutinise, not to advocate. A number of members mentioned specific witnesses. I cannot comment on that as Chair. In regard to any witness appearing before the committee, that is a matter for the committee itself to agree and we are going through that process of agreement. What I can say is that the committee will engage with resident groups, airlines, business and tourism organisations, NGOs and maybe one or two organisations on questions of law. We will approach this matter mindful that whatever decision is taken will have long-term implications for aviation, policy, planning law and

infrastructure delivery for the State. We touched on lots of argument in favour today but also on concerns and risks.

I thank the members and witnesses and the meeting now stands adjourned until 9.30 a.m. on Wednesday, 18 March, when the committee will again meet in public session.

The joint committee adjourned at 11.55 a.m. until 9.30 a.m. on Wednesday, 18 March 2026.