



Response to CAA consultation on Economic Regulation of Heathrow - CAP1940 June 2020

18th August 2020

1.0 Introduction

- 1.1 Heathrow Hub Ltd & Runway Innovations Ltd, the promoters of the Extended Northern Runway (ENR) scheme for Heathrow expansion, welcome this opportunity to respond to the CAA's consultation.
- 1.2 In addition to the current consultation documents, we have referred to the following previous CAA consultations;
- Economic regulation of Heathrow Airport Limited: policy update and consultation on the early costs of capacity expansion, CAP 1871 (December 2019);
 - Economic regulation of Heathrow Airport Limited: further consultation on regulatory framework and financial issues CAP 1876 (January 2020)
- 1.3 Our principal concern is that the CAA's economic regulation of Heathrow is based on what we believe to be flawed assumptions. Our previous consultation responses set out detailed analysis supporting this assertion, but we have seen no evidence that this has been considered, let alone rebutted.
- 1.4 The Government's consultation code, which we assume the CAA follows in the apparent absence of any other guidance, requires responses to consultations to explain how submissions have informed policy.¹ The apparent absence of any consideration of our responses would be of concern at any time. However, this is particularly critical when, at a time of unprecedented financial challenges for airlines, Heathrow Airport Ltd. (HAL) seek the CAA's agreement to recover the very substantial cost of developing its North West Runway (NWR) scheme.
- 1.5 Costs ultimately fall on consumers. If as we believe, they result from inefficient spend on a fundamentally flawed scheme that is neither viable, deliverable or affordable, this would appear to be incompatible with the CAA's primary duty to promote the interests of consumers.

¹ Government consultation principles, 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles_1.pdf

- 1.6 HAL's public consultation last year and its December 2019 'Initial Business Plan' (IBP) clearly showed the NWR scheme is significantly different to that on which the CAA has based its assessment. We have summarised some of these differences and their consequences in our previous consultation responses.
- 1.7 It is therefore important to challenge HAL's statement that *"its IBP method for estimating opex and commercial revenues remains fit for purpose."*² Our previous consultation responses show that critical aspects of the NWR scheme are, at best, unclear and certainly do not provide a robust basis for financial estimates. These include:
- Scope of proposed infrastructure
 - Phasing of construction
 - Capital cost
 - Benefits, including the additional capacity assumed to be delivered at each phase of construction
 - Risks, including the extent of and assumptions for property and infrastructure acquisition, extinguishment and relocation, as well as noise impacts on existing and newly overflowed communities;
 - Dependencies, including airspace redesign, safety case, closure of or impacts on other airports and airfields and surface access enhancements outside the scope of the NWR scheme.
 - Deliverability, and whether assumptions as to capacity, respite, resilience and operational efficiency are consistent, coherent and credible.
- 1.8 This lack of clarity would be remarkable for any scheme, let alone one which – in the words of the CAA's former Chief Executive – is *"probably the largest privately financed infrastructure project anywhere ever in the world."*³
- 1.9 HAL benefits from a uniquely favourable set of circumstances - Heathrow is the UK's only hub airport, recognised as having Substantial Market Power⁴ and is regulated under a system which has allowed shareholders to consistently - and we believe uniquely in any regulated business - draw dividends which exceed capex, while allowing debt to increase to c.£14.4bn, and gearing to over 86%.⁵
- 1.10 We trust that the CAA will take this into account in considering HAL's request for *"greater protection from risk in the future"*⁶ and in determining how it might incentivise HAL *"to make capital investments efficiently."*⁷

² Para. 2.8, CAP1940

³ Andrew Haines, Chief Executive, CAA, Oral evidence to House of Commons Transport Committee, Q634, 20th February 2018

⁴ CAP1133, Market power determination in relation to Heathrow Airport – statement of reasons, CAA 2013

⁵ Sunday Times, 1st March 2020 and Heathrow Finance plc presentation, November 2019

https://www.heathrow.com/content/dam/heathrow/web/common/documents/company/investor/reports-and-presentations/investor-presentations/2019-Investor_Deck_HFin_bond.pdf

⁶ Para. 1.5, CAP 1940

⁷ Para. 11, CAP1940

- 1.11 Furthermore, HAL had, prior to the Appeal Court’s judgment, the benefit of an ANPS (Airports National Policy Statement) that, uniquely among designated National Policy Statements, is both site and scheme specific. While the ANPS left open the possibility, however notional, of an alternative promoter bringing forward the NWR scheme, the Relationship Framework Agreement between the Secretary of State and HAL stated *“the Department believes that Heathrow is currently the only credible promoter that is able to deliver the Scheme in its entirety, either by itself or in collaboration with others.”*⁸
- 1.12 It is now almost eight years since the Airports Commission began its work. HAL claim to have spent over £0.5bn⁹ on developing its NWR scheme, whilst also having the benefit of corporate memory of previous (albeit failed) attempts to develop a new parallel third runway. It might therefore be expected that a coherent, settled, affordable and deliverable scheme could now be clearly explained. It also seems reasonable to assume that the CAA would provide the most intensive scrutiny of HAL’s assumptions.
- 1.13 Given the lack of any final scheme, the Appeal Court’s judgment is to be welcomed, not only in allowing the benefits of our alternative ENR scheme to be properly considered, but in avoiding what we believe would have been - even before the current pandemic - a failed project with potentially catastrophic consequences for the UK’s connectivity and competitiveness.
- 1.14 The consultation nevertheless appears to assume¹⁰ that HAL should recover *“the circa £500m of early expansion costs that HAL has incurred up to the end of February 2020”*,¹¹ despite the CAA’s own admissions that *“the IPCR’s reviews had demonstrated the difficulties in benchmarking and assessing the efficiency of these planning costs”* and *“the difficulties we have encountered in reviewing expansion costs to date.”*¹²
- 1.15 In addition, the consultation notes HAL has claimed an additional circa £46 million ‘wind-down’ costs to Q3 2020, excluding further costs to support the legal process for HAL’s appeal to the Supreme Court which the CAA considers to be *“an ongoing strand of HAL’s expansion work”*.¹³
- 1.16 If we understand the consultation correctly, recovery of any costs will be subject to a review process, although this has yet to be defined. However, it is of serious concern that the consultation appears to suggest an in-principle decision to allow recovery in full has already been taken, subject only to *“a final efficiency review.”*¹⁴

⁸ Para. 2.4, Relationship Framework Document, Secretary of State and Heathrow Airport Ltd, June 2018

⁹ *“At the time HAL decided to pause expansion, HAL had incurred around £504million, consisting of £394 million of Category B costs and £110 million of Category C costs.”* This excludes additional programme costs accounted for on a quarterly basis. Footnote 22, Appendix C CAP1940, June 2020

¹⁰ *“The long established regulatory principle that efficiently incurred capital costs are added to HAL’s RAB ...will apply to the £500m in Category B and C costs”* – Para. 25, Appendix C CAP1940

¹¹ Para. 12, *ibid*

¹² Para. 32, *ibid*

¹³ Paras. 41 and 43, *ibid*

¹⁴ Para. 48, Appendix C *ibid*

- 1.17 PwC, the CAA’s Independent Planning Costs Reviewer, in examining if there was “evidence to indicate that costs ... have been incurred in an efficient manner”¹⁵ concluded;
- “HAL did not have a clear and singular integrated baseline plan through to approval of the DCO that aligns requirements and scope with the associated time, cost and risk;”
 - “While HAL does have multiple documents that relate to scope, time, cost and risk, the alignment and dependencies between these documents remains unclear and they do not establish a robust baseline position from which to measure and manage performance and control delivery;”
 - “HAL does not operate a programme level change process for the Expansion Programme to manage the baseline scope, cost, schedule and risk;”¹⁶
 - “There is no singular baseline position from which to establish an appropriate governance process. HAL does not operate a programme level change process for the Expansion Programme to manage the baseline scope, cost, schedule and risk;”¹⁷
 - “Milestone Report changes to the milestone forecast dates were reported, but no commentary or analysis was provided to identify the impact of the delay in terms of scope, schedule, cost or risk.”¹⁸
- 1.18 This is a damning indictment of HAL’s governance and project management which supports and helps explain the analysis and criticism in our previous consultation responses. This is particularly relevant to the specific critical issues of scope, cost, capacity and affordability which we further summarise below. It shows that HAL developed the NWR scheme in silos, without the holistic consideration essential to reconciling the, often contradictory, requirements necessary to arrive at a deliverable, viable and affordable scheme.
- 1.19 It would seem that the CAA do not fully understand the implications of PwC’s analysis.
- 1.20 The consultation simply states, “we recognise that it is challenging to assess the efficiency of costs associated with planning activity, which by their nature, are difficult to benchmark.”¹⁹ We fundamentally disagree – HAL’s failure to develop a single integrated baseline scheme is simply irreconcilable with efficient expenditure.
- 1.21 The very fact that the total estimate for Category B costs increased from £298m (at 2014 prices) to £529m (base date not identified so assumed at 2014 prices) in less than one year²⁰ should clearly signal to the CAA that HAL’s management of the NWR scheme design process was simply out of control, led by a client body immune to the commercial imperatives and constraints of any normal private business.
- 1.22 There are numerous private sector infrastructure schemes which could be used to benchmark scheme development costs – not least our own ENR which has been designed to

¹⁵ Section 3, Independent Planning Cost Review, PwC April 2020

¹⁶ Para. 3.3, *ibid*

¹⁷ Para. 3.4.3, *ibid*

¹⁸ Para. 3.4.4, *ibid*

¹⁹ Para. 20, Appendix D CAP1940

²⁰ Page 35, Independent Planning Cost Review, PwC April 2020

provide the same proposed capacity as NWR.

- 1.23 As the promoter of the only other Heathrow expansion scheme shortlisted by the Airports Commission, and therefore with expert knowledge of both scheme development costs and the airport itself, we would welcome the opportunity to be involved in scrutiny of HAL's claimed costs. Indeed, as expert clients whose integrated scheme was developed with world class consultants, we find it simply impossible to understand how over £0.5bn of costs can have been incurred at all, considering the immaturity of and evident flaws in the NWR scheme prior to work halting.
- 1.24 While airlines should of course be involved in what we trust will be further robust scrutiny,²¹ they lack our expert knowledge of airport infrastructure development, and in any case may find it challenging to mobilise resources for what will, if properly carried out, be a lengthy and complex exercise. This is of course a particularly important consideration during the current pandemic when airlines are engaged in a fight for survival and are losing many experienced staff.

2.0 Scope

- 2.1 The previous consultations refer to *"HAL's £14 billion M4 masterplan cost estimate,"*²² but provide no information on the scope of work this is assumed to include, simply referring to *"HAL's preferred Masterplan at the M4 exit programme gateway of the expansion programme, as at Q1 2019."*²³
- 2.2 Without any supporting information, it is impossible to assess the assertion that *"the IFS considered that the budget proposed by HAL is realistic and appropriately covers the delivery of the scope of work presented."*²⁴
- 2.3 However, HAL's press release accompanying the IBP states its scheme proposal *"meets all requirements of the Airports National Policy Statement, with overall costs in-line with the £14 billion original plan submitted to the Airports Commission back in 2014."*²⁵
- 2.4 This is entirely misleading and factually incorrect. It suggests that the NWR scheme described in the IBP is the same as that assessed by the Airports Commission, recommended in its 2015 Final Report and subsequently given specific policy support in the ANPS.
- 2.5 In fact, it is clear that the IBP assumes only an additional runway, just one single element of the *"original plan submitted to the Airports Commission back in 2014,"* and the NWR scheme masterplan that is included in the ANPS.

²¹ Para. 39, Appendix C CAP1940

²² Para. 6, CAP1871

²³ Footnote 51, CAP1871

²⁴ Para. 8, CAP1871

²⁵ *"Heathrow plan for 2020s delivers lower airfares,"* Press release, HAL, 23rd December 2019
<https://mediacentre.heathrow.com/pressrelease/details/81/Expansion-News-23/11937>

- 2.6 HAL's 2019 statutory consultation confirms that what is termed 'Phase 1' is limited to a new runway on the assumption that in this initial phase *"terminal and apron capacity will be met by providing enhancements to the existing facilities."*²⁶
- 2.7 The previous consultations provide no information whatsoever on the scope of the 'M4 masterplan.' However, they effectively confirm our understanding that this simply includes a runway by stating *"the schedule of works in HAL's masterplan offers a deliverable critical path through to runway opening in 2026"*²⁷ - the same date (albeit subsequently stated to be unachievable) which HAL assumed for completion of its proposed phase 1.²⁸
- 2.8 The previous consultations therefore either misrepresent or misunderstand this critical issue of scheme scope, and do not provide a robust basis for decision making.
- 3.0 Capital cost**
- 3.1 In the absence of any published information on cost, our previous responses to the CAA's consultations, including that of 20th August 2019, provided detailed and robust analysis. We have seen no evidence that this has been considered.
- 3.2 Considering the importance of Heathrow expansion to the national interest, the critical importance of cost and the strategic need to maintain the competitiveness of the UK's only hub airport, with already the highest user charges of any airport in the world, this is a significant omission.
- 3.3 It also appears inexplicable that our submissions, and the critical points we raised, have received no mention whatsoever, despite for example the CAA receiving only 16 other responses to the July 2019 CAP1819 consultation.
- 3.4 There is clearly a fundamental issue that should be addressed regarding cost. In previous and current consultations, the CAA refer to *"HAL's £14 billion M4 masterplan cost estimate" at "2014 prices" which "provides a view of expansion costs up to 2026, HAL's proposed runway opening date."*^{29 30 31}
- 3.5 For comparison, the Airports Commission's Final Report,³² DfT's subsequent review and the designated NPS³³ all assumed a figure of £17.6bn (at 2014 prices) to deliver the entire NWR

²⁶ Paras. 8.2.1-2, Preferred masterplan, HAL, June 2019

²⁷ Para. 8, CAP1871

²⁸ *"Phase 1 – around 2026: Represents the anticipated date when the proposed new runway becomes operational"* – Para. 3.11, Airport expansion consultation document, HAL, June 2019

²⁹ Paras. 9 & 2.6, Economic regulation of capacity expansion at Heathrow airport: consultation on early costs and regulatory timetable, CAP 1819,

³⁰ Paras. 5 & 6, Appendix B, Economic regulation of Heathrow Airport Limited: policy update and consultation on the early costs of capacity expansion, CAP 1871

³¹ Footnote 30, Economic regulation of Heathrow Airport Limited: further consultation on regulatory framework and financial issues CAP 1876

³² Table 11.2, Final Report, Airports Commission July 2015

³³ Para. 3.56 Airports NPS, June 2018

scheme, including taxiways, aircraft stands, terminal facilities and supporting landside and airside infrastructure – effectively an entirely new airport outside the existing Heathrow campus.

- 3.6 The previous consultation states *“while HAL’s overall budget for capacity expansion has remained relatively stable it is important to acknowledge there have been changes in the scope of the infrastructure it intends to deliver in the period up to runway opening.”*³⁴ This is at the very least misleading – the *“changes in the scope”* are so fundamental as to call into question the entire viability and deliverability of NWR.
- 3.7 The previous consultation also states that *“no allowance has been included in HAL’s expansion cost estimate for its Communities Compensation Fund.”*³⁵ The ANPS refers to *“HAL’s compensation packages (covering residential property acquisition, noise insulation, and other community measures like funding for schools), of more than £1 billion at Heathrow Airport.”*³⁶ Whether this is the correct figure, or if this should be the £2.6bn which the Secretary of State stated was required,³⁷ and which the Transport Select Committee assumed in its scrutiny of the draft ANPS,³⁸ this is a significant omission from the CAA’s analysis.
- 3.8 In any case, £14bn appears to be a serious underestimate even for the drastically reduced scope of HAL’s proposed phase 1. Our August 2019 response to previous consultations explained why we believe a first phase of NWR is likely to cost c.£31bn (at 2014 prices). In considering the entire NWR scheme, to this should be added the CAA’s estimate of *“£32.5 billion (in 2014 prices) in the period to 2050 (to provide the capacity to accommodate 142 million passengers per annum)”*³⁹
- 3.9 We have seen no rebuttal or rejection of our estimate and assume that the true cost of HAL’s complete scheme is therefore likely to be at least £63bn at 2014 prices. This is of course additional to Heathrow’s current RAB of c.£16bn,⁴⁰ which is already supported by over £14bn of debt.⁴¹

³⁴ Para. 2, Economic regulation of Heathrow Airport Limited: further consultation on regulatory framework and financial issues

CAP 1876,

³⁵ Para. 9, Appendix B, CAP1871

³⁶ Para. 3.55, Airports National Policy Statement, June 2018

³⁷ *“Communities affected by the decision will be supported by up to £2.6 billion towards compensation, noise insulation for homes and schools, improvements to public facilities and other measures”* – Secretary of State for Transport, Column 164, Hansard 25th October 2016

³⁸ Para.75, House of Commons Transport Committee, Airports National Policy Statement, Third Report of Session 2017–19, March 2018

³⁹ Para 7, Economic regulation of capacity expansion at Heathrow airport: consultation on early costs and regulatory timetable, CAP1819

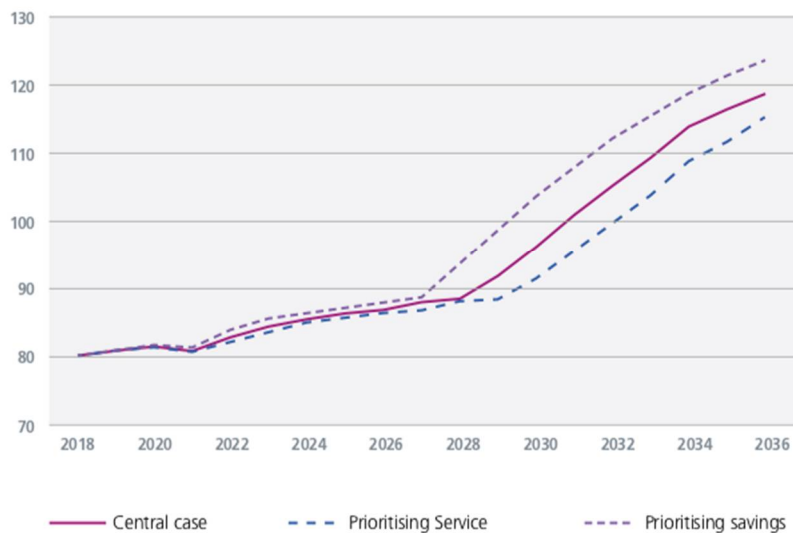
⁴⁰ Weighted average Regulatory Asset Base (RAB) 2018 £15,994 million - Heathrow (SP) Limited Regulatory Accounts Year ended 31 December 2018

⁴¹ HAL press release, 23rd July 2019 <https://mediacentre.heathrow.com/pressrelease/details/81/Corporate-operational-24/11360>

4.0 Capacity

- 4.1 The absence of any definition of project scope makes it impossible to determine the capacity – in terms of additional ATM’s – assumed to be delivered by a first phase of NWR.
- 4.2 CAP1812, CAP1819 and subsequent consultations all rely on what we assume to be HAL’s own estimates of passenger traffic with no reference to the number of ATM’s needed to deliver these increased passenger numbers.
- 4.3 This is remarkable considering the absence of any safety case and the NWR scheme’s total reliance on what the CAA term an “unprecedented” scale of airspace change.⁴² In addition, as we have previously set out, there are fundamental and irreconcilable contradictions between HAL’s assumptions on alternating runway operating modes to provide respite,⁴³ the need for terminal arrivals and compass departures,⁴⁴ and the requirement to operate the NW runway and its future satellite stands largely as a standalone facility in order to avoid unacceptable levels of taxiway congestion.⁴⁵
- 4.4 HAL’s Initial Business Plan, published in December 2019, includes the following graph;⁴⁶

Heathrow Passenger Forecast (m)



⁴² Para. 56, Written evidence submitted by the Civil Aviation Authority (ASM0033) to the Airspace management and modernisation inquiry, House of Commons Transport Committee, March 2017

⁴³ “There are four possible mode allocations: MLD, MDL, LDM, DLM. The mode allocation will cycle through at pre-set intervals in order to provide respite for those communities living closest to the airport” – Para. 3.5.2, Future Runway Operations, HAL June 2019

⁴⁴ Para. 3.1, Operational Efficiency - Fast Time Airspace Simulation, NATS, April 2015

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/437271/operational-efficiency-fast-time-airspace-simulation.pdf

⁴⁵ In order to avoid ground congestion and capacity constraints, NWR will require “satellite and R3 largely operated as a single unit with limited taxiing to/from the remainder of the airfield” - Para 2.1.3 Operational Efficiency: Phasing and Facilities Review, Jacobs/Leigh Fisher for Airports Commission, June 2015

⁴⁶ Figure 51, Initial Business Plan, HAL, December 2019

- 4.5 The accompanying text explains this assumes “an additional 25,000 ATMs on the existing two runways” and that the average “load factor can increase from 79.4% in 2018, up to the IATA average of 81.9%. This 2.5%-point increase to average load factors would deliver an extra 2.5m passengers to the airport.”⁴⁷
- 4.6 This appears broadly consistent with HAL’s 2019 statutory consultation which referred to an ‘Assessment Case Forecast’ of 505,000 ATM’s and 87.4mppa by “ca.2026” when a new runway was assumed to be operational.⁴⁸
- 4.7 However, there is no evidence whatsoever to demonstrate that the assumed additional 25,000 ATM’s could be physically accommodated within the airport’s constrained infrastructure, or handled without unacceptable impacts on reliability and resilience, or that permission for any increase in the planning cap would be granted.
- 4.8 While it might be argued that the current cap of 480,000 ATM’s pa is an artificial constraint resulting from the T5 consent, Heathrow’s current runway movement rate is already ambitious – indeed the highest intensity in the world – resulting in lack of resilience. Ground operations are restricted by the smallest site area of any comparable airport, inefficient legacy infrastructure, including T3 cul-de-sac stands, and a remote T4 requiring long taxiing distances and runway crossings.
- 4.9 An accurate understanding of deliverable capacity is critical to the case for NWR. The House of Commons Transport Committee’s scrutiny of the draft ANPS noted “*the economic case of the NWR scheme is grounded on it being delivered by 2026 and at capacity by 2028. These are essential considerations. If the NWR cannot be delivered to the capacity and timeline assumed, because of, say, airfield design pinch points or planning issues, there will be considerable knock on effects to the economic business case of the scheme. A two- year delay to the scheme’s delivery would result in £16.3 billion of benefits being removed from the economic case.*”
- 4.10 HAL’s 2019 statutory consultation assumed 665,000 ATM’s pa by 2030, on the basis of a third runway opening in 2026. HAL’s Business Plan instead suggests 2028 or 2029 as the very earliest date.⁴⁹ Hence, in the course of just six months HAL’s programme slipped by anything up to three years.
- 4.11 While these forecasts are of course now irrelevant, they were of critical importance to the economic case for and the affordability of the NWR scheme. However, we are not aware of any scrutiny by the CAA, despite HAL now expecting to recover all costs which they incurred in developing the NWR scheme on the basis of these fundamentally flawed assumptions.

⁴⁷ P.32, Initial Business Plan Summary, HAL, December 2019

⁴⁸ Table B1, Future Runway Operations, HAL, June 2019

⁴⁹ P.65, Initial Business Plan Summary, HAL, December 2019

5.0 Affordability

- 5.1 The current consultation refers to the previous *“risk sharing arrangements”*, which were *“designed to encourage HAL to make a high quality planning application,”*⁵⁰ and states these *“no longer seem appropriate.”* The consultation however fails to consider, not only why any incentives should be required of a private company with a vested interest in success, but who might be responsible for assessing the quality of HAL’s work, and how this might be defined.
- 5.2 In this, we refer to our numerous responses to previous consultations which highlight the many clear and significant flaws in HAL’s work towards a planning application and which make the NWR scheme not only flawed but undeliverable on any rational measure. We believe that any proper assessment would conclude that HAL’s scheme development work has simply failed to satisfy any definition of quality.
- 5.3 Government has consistently stated that *“expansion will be privately financed, and costs will not fall on the taxpayer”*⁵¹ while the Secretary of State for Transport, in designating the ANPS, confirmed his intention *“to keep airport charges as close as possible to current levels.”*⁵²
- 5.4 HAL’s expansion plans therefore relied entirely on passenger volumes increasing at a rate, and to a level, that can support the private investment required, recognising the risks not only inherent in a project of this scale but in a design that, as late as 2019, was so immature as to require what was intended to be a further major consultation in 2020.⁵³
- 5.5 As noted above, DfT’s review of the Airports Commission’s evidence assumed that the whole of the additional capacity (740,000 ATM’s) which NWR was intended to deliver would be fully taken up within two years of the new runway opening, by 2028.
- 5.6 In contrast, and presumably acknowledging what might reasonably be described as the challenge of attempting to make NWR affordable, HAL instead proposed to phase construction and therefore the release of achievable new capacity. We have seen no acknowledgement of the obvious fact that this therefore destroys the assumptions used in constructing an economic case for NWR.
- 5.7 Hence it is difficult if not impossible to see how the scheme could be financed without a significant increase in user charges.

⁵⁰ Para. 15, CAP1940

⁵¹ Government agrees final proposal for Heathrow expansion, News story, DfT, 5th June 2018

⁵² Rt Hon Chris Grayling MP, Secretary of State for Transport, Column 658, Hansard, 25th June 2018

⁵³ Heathrow Airport Ltd press release, 7th January 2020

- 5.8 HAL's estimate of £14bn for phase 1, even if it were accurate, is only £2bn less than Heathrow's entire current RAB.⁵⁴ In 2018, the closing RAB of £16.2bn was supported by total revenues of £2.95bn from 80.1m passengers⁵⁵ and 472,744 ATM's.⁵⁶
- 5.9 HAL therefore assume that a marginal increase in passenger numbers could finance a near doubling of the RAB.
- 5.10 To put HAL's claims and assumptions in context, Heathrow's charges trebled⁵⁷ following the addition of ca.£11bn capital expenditure to the RAB between 2005 and 2014.⁵⁸
- 5.11 Over the same period, passenger numbers increased from 67.7m in 2005⁵⁹ to 73.2m in 2014⁶⁰ - an additional 5.5m.
- 5.12 In considering NWR affordability, HAL therefore assume that an even larger increase in the RAB could be justified and made affordable by a similar or lower number of additional passengers – even assuming that an additional 25,000 ATM's pa was achievable.
- 5.13 HAL's IBP suggests that a significant increase in airport charges would indeed be unavoidable,⁶¹ but that this would be offset by lower fares as a result of increased competition. HAL rely on Frontier Economics' report⁶² which suggests that NWR would see the average return ticket price for passengers dropping by £21 – £37 on short haul flights and £81 – £142 on long-haul services.⁶³
- 5.14 There is no explanation of the additional capacity that has been assumed in this analysis. However, it appears to consider only HAL's first phase, which simply provides a new runway without any additional passenger processing or stand capacity. This would severely restrict opportunities for any new entrants and for any competitive downward pressure on incumbent carriers. It also fails to consider that slot allocation rules mean that existing carriers would still be eligible for 50% of any new slots.

⁵⁴ Closing RAB at 31st December 2018 £16.2 billion, Heathrow (SP) Limited Regulatory Accounts, Year ended 31 December 2018

⁵⁵ Heathrow (SP) Limited Regulatory Accounts, Year ended 31 December 2018, HAL ,April 2019

⁵⁶ Heathrow (SP) Limited News Release, Results for the year ended 31 December 2018, 21st February 2019

⁵⁷ Figure C.10, Appendix C, Market power determination in relation to Heathrow Airport – statement of reasons CAP1133

⁵⁸ £11bn at 2014 prices, Para.3.4, Strategic themes for the review of Heathrow Airport Ltd's charges ('H7'), Technical Appendices, CAP1383a

⁵⁹ CAA Passenger Survey Report 2005

https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Data_and_analysis/Datasets/Passenger_survey/CAA%20Passenger%20survey%20report%202005.pdf

⁶⁰ CAA Passenger Survey Report 2014

https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Data_and_analysis/Datasets/Passenger_survey/CAA%20Passenger%20Survey%20Report%202014.pdf

⁶¹ P.68, Initial Business Plan, HAL, December 2019

⁶² Estimating the congestion premium at Heathrow, Frontier Economics for HAL, May 2019

https://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airports/H7/Estimating%20the%20congestion%20premium%20at%20Heathrow.pdf

⁶³ P.68, Initial Business Plan, HAL, December 2019

- 5.15 In addition, the fragile, cyclical and turbulent nature of airline economics must be considered. These are particularly sensitive to exogenous shock of which the current pandemic and ‘flygskam’ (‘Flight shame’) are just two examples, the former of course extreme but the latter perhaps an indicator of a more fundamental and long term structural challenge to the industry.⁶⁴
- 5.16 We are not aware of any other major airport that seeks to justify significant capital expenditure by relying on the untested assumption that higher passenger charges can be offset by lower air fares. This was speculative at best prior to the pandemic but is in any case inconsistent with the CAA’s own conclusion that *“the degree of competition at the airline level may sometimes work against fare rises being passed on to passengers. However, even incumbent airlines at Heathrow may, in the long run, be compelled to raise prices. The ability for an airline to absorb prices may be affected by its overall profitability at the time in question. Where an airline faces a difficult trading environment it may have no choice but to pass on increases to users and/or reduce service quality. In the meantime, airlines would look to reduce frequencies, scale back passenger facing facilities such as check-in desks as well as staff numbers. The risk to users therefore manifests itself in price rises or service quality reductions.”*⁶⁵
- 5.17 HAL’s argument also appears unique in assuming that airlines, as privately owned and financed entities, without the benefit of RAB based financing and trading in one of the world’s most competitive service industries, with extremely high entry costs, will make even greater efficiencies in order to compensate for the chronic and inherent inefficiencies in its own business.
- 5.18 Heathrow already has the highest user charges of any comparable airport anywhere in the world.^{66 67} BAR-UK, representing the world’s airlines, told the House of Commons Transport Committee *“the problem essentially is that, if you have the most expensive airport in the world with the highest aviation taxes in the world, it is not an aspiration for this country going forward to be globally competitive. We should not be aspiring to be the most expensive in everything.”*⁶⁸

⁶⁴ For example – ‘German Air Travel Slump Points to Spread of Flight Shame’ Bloomberg, 19th December 2019 <https://www.bloomberg.com/news/articles/2019-12-19/german-air-travel-slump-points-to-spread-of-flight-shame> and

“The Spread of Flight Shame in Europe—Is Greta Thunberg The Reason Why?” – Forbes, 13th January 2020 <https://www.forbes.com/sites/jamesasquith/2020/01/13/the-spread-of-flight-shame-in-europe-is-greta-thunberg-the-reason-why/#3691099269bd>

⁶⁵ Paras. G25 & G26, Appendix G: Evidence and analysis on Test B, Market power determination in relation to Heathrow Airport – statement of reasons CAP1133, CAA 2013

⁶⁶ *“Heathrow is already 35% more expensive than Frankfurt; 60% more expensive than Charles de Gaulle; 115% more expensive than Amsterdam; and 175% more expensive than Dubai”* - Q154, Transport Committee oral evidence HC548, 18th December 2017

⁶⁷ Figures 22, 23 and 28, Comparing and Capping Airport Charges at Regulated Airports, Leigh Fisher for CAA, December 2012 <https://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294972552>

⁶⁸ Dale Keller, Chief Executive, BAR UK, Oral evidence to the House of Commons Transport Committee, Q587, 20th February 2018

- 5.19 HAL's 2019 consultation suggested that a Phase 2 of NWR would allow 665,000 ATM's (115mppa) by 2030.⁶⁹ However, neither HAL's consultation or the CAA's consultations provides any estimate of the capital cost or impact on charges of this further phase.
- 5.20 It is also clear that assuming this capacity would be available in 2030, just one or two years after it was assumed that Phase 1 would be complete, is wholly unrealistic considering the scale of work that would be required to design, construct and commission the new taxiways, stands, terminal and ancillary infrastructure which would be required.
- 5.21 The current consultation states that HAL's estimate of early expansion costs incurred to the end of February 2020, "*which are in the region of £500 million,*" is "*consistent with the established regulatory principle that costs should be added to HAL's RAB unless there is evidence of inefficiency or misallocation.*"⁷⁰
- 5.22 This and our previous consultation responses provide clear and we believe irrefutable evidence that HAL's development of the NWR scheme is wholly inefficient in that it has – despite eight years of development – completely failed to present a viable, affordable and deliverable scheme. We welcome the CAA's confirmation that it will complete work on "*reviewing the efficiency and allocation*"⁷¹ of HAL's claimed costs and trust that it will draw on the evidence we have provided.
- 5.23 As affordability is of critical importance to airlines very survival, we would welcome the opportunity of providing further information that would assist the CAA's determination.

6.0 Airspace

- 6.1 NWR is entirely dependent on what the CAA term "*airspace change on an unprecedented scale*"⁷² HAL's Initial Business Plan confirms "*Heathrow has assumed a change in airspace occurs when forming passenger forecasts.*"⁷³ Despite this critical dependency, there is no risk analysis or any available information that would allow even an initial assessment of the impact of the necessary changes on other airports and airfields. However, it seems highly likely that these will have significant impacts on their capacity, noise impacts and/or efficiency.
- 6.2 This applies not only to major airports, who would presumably seek compensation for changes, presumably requiring new legislation in the absence of any current powers, which would be disadvantageous in order to provide commercial benefits to a privately owned competitor.

⁶⁹ Table B1, Future Runway Operations, HAL, June 2019

⁷⁰ Para. 15, CAP1940

⁷¹ Para. 15, CAP1940

⁷² Para. 56, Written evidence submitted by the Civil Aviation Authority (ASM0033) to the Airspace management and modernisation inquiry, House of Commons Transport Committee, March 2017

⁷³ Para. 8.2, Initial Business Plan, HAL, December 2019

6.3 It also presents a major threat to General Aviation airfields, the strategic importance of which has been emphasised by the Secretary of State in his guidance to the CAA. For example, the GAAC (General Aviation Awareness Council) have specifically highlighted that NWR threatens White Waltham to the extent where General Aviation could become untenable.⁷⁴

7.0 Safety

7.1 Capacity is dependent on the CAA's approval of a safety case, recognising not only the fundamental change from two to three parallel runways, but also the complexity resulting from the interaction between, for example, mixed mode operations, terminal arrivals/compass departures, runway alternation to deliver claimed respite and the need for aircraft to cross both in low level airspace and on the ground.

7.2 Both our own and Gatwick Airport Ltd.'s analysis suggest that there are fundamental risks that need to be addressed before any assumptions can be made as to NWR's deliverable capacity.⁷⁵

7.3 Most recently, the need to temporarily suspend Heathrow arrivals because of MoD operations at Northolt⁷⁶ is a reminder of the critical dependency between the two airports. The location of HAL's proposed third runway, over 1km closer to Northolt, requires a fundamental reassessment of the safety case for both airports.

8.0 Conclusion

8.1 Only one aspect of NWR is clear. As set out in our previous responses to the CAA's consultations, it is a totally different scheme to that assessed by the Airports Commission, reviewed by DfT and described in the ANPS.

8.2 The Appeal Court's judgment, and the forthcoming Supreme Court appeal, means there will be an unavoidable delay while Government carries out a review and/or determines a new strategic aviation and airports policy. Government's refusal to join or support HAL in their challenge suggests that the NWR scheme no longer has policy support.

8.3 This may seem to conflict with Government's ambitions for a post-Brexit Britain that is open for business. However, in their responses to the CAA's 2018 consultations, IATA and Heathrow's AOC, representing Heathrow's airlines, state;

- *"Firstly, we believe that the costs to the passenger that the CAA lists are exactly those that stem from an unaffordable Heathrow Airport, not ones that could come from a short delay. Second, we are puzzled as to why the CAA sees any delay as having significant costs. It is*

⁷⁴ <https://www.gaac.org.uk/have-your-say-heathrows-3rd-runway-plans-threaten-future-of-white-waltham/>

⁷⁵ For example, Airspace and Operational Concepts Report, Reid Aviation for GAL, Appendix 25, Response to Airports Commission consultation

⁷⁶ <https://www.theguardian.com/uk-news/2020/jan/17/heathrow-arrivals-halted-by-raf-during-security-incident>

surely better that if the expansion of Heathrow Airport is to go ahead, that it is affordable, and is the most efficient design delivered by the most efficient company.”⁷⁷

- *“It is not enough to argue that any delay is not to be tolerated. In order to come to this conclusion objectively, the CAA would need to have calculated the costs of any delay.”⁷⁸*
- *“It is not clear to us what the costs of delay are, or indeed whether where HAL’s programme is currently at is consistent with such a date. Consequently, any decision on early Category C should be taken at the last responsible moment, and only if there is clear evidence that such a decision needs to be made and it is in our passengers’ interests. This should include the costs of any delay.”⁷⁹*

8.4 We therefore believe there is an opportunity to secure additional capacity at Heathrow that is deliverable, aligned with demand, consistent with environmental constraints, politically achievable and affordable to airlines and users.

8.5 Our ENR scheme has been developed to a high degree of confidence, and we believe remains the best – and indeed only – solution in the national interest. We would welcome the opportunity to discuss this with the CAA as it considers future regulation of Heathrow in the context of the increasingly fragile economics of the aviation industry and the inevitable uncertainties of Brexit.

⁷⁷ IATA/AOC Response to the CAA’s Consultation on Economic Regulation of Capacity Expansion at Heathrow, (CAA CAP 1610) March 2018

⁷⁸ *ibid*

⁷⁹ IATA/AOC Response to the CAA’s Consultation on the Economic regulation of capacity expansion at Heathrow: policy update and conclusion, (CAP 1658) July 2018