

[REDACTED]

11 March 2020
EIR Reference: E0004605/10/13/14

Dear [REDACTED]

Thank you for your requests for information, received between the 19 and 27 December 2019, for the release of information held by the Civil Aviation Authority (CAA). We have carefully considered all parts of your request in line with the provisions of the Environmental Information Regulations 2004 (EIR), including taking into account that the EIR requires the CAA to apply a presumption in favour of disclosure.

Information within the scope of your request

The table below summarises your requests and the information that the CAA has identified that it holds within the scope of each request. The full text of your requests is included in Annex 1.

Request	Information identified within scope
A copy of Heathrow Airport Limited's Business Case for the North West Runway provided to the CAA.	Heathrow's Initial Business Plan, dated December 2019
All relevant correspondence, including emails, meeting notes, reports and notes from any telephone calls relevant to Heathrow Airport Limited's business case.	Various material held
All analysis relating to the new capacity which would be released by the first phase of the proposed North West Runway at Heathrow Airport (what CAP1871 refers to as the ' <i>third runway and associated works</i> '), including but not limited to: <ul style="list-style-type: none">terminal and processing capacity;taxiway/stand capacity;resilience; andrespite	Contained within Heathrow's Initial Business Plan

Copies of all detailed costing information submitted by HAL to the CAA in relation to its proposed North West Runway and associated works.	Contained within Heathrow's Initial Business Plan
<p>The following information referred to in CAP1871:</p> <ul style="list-style-type: none"> • Arcadis October 2018 master plan review; • Any relevant information pertaining to Table 1.3 and appendix B1 which informs the costs referenced; • The total capital cost of North West Runway has been quoted as £14bn (2014 prices) please provide us with documentation which supports this sum; • Appendix F1(a) refers to “third runway and associated works” please provide documentation which details what this associated works includes; • IFS October 2019 report and supplementary review/addendum; • HAL minutes of cost and budget meetings; and • IFS M4 estimate review March 2019. 	<p>Arcadis report commissioned by the CAA - HEATHROW AIRPORT LIMITED MASTERPLAN REVIEW STEP 0 REPORT - FINAL, dated October 2019</p> <p>Supplementary information request Pre-DCO category C costs, reference CAA-H7- 301, dated 30 September 2019 (<i>Information on phased spend for scenarios 1-3</i>)</p> <p>HEATHROW EXPANSION UPDATE: CAA Deep dive, dated 28th January 2019 (<i>Presentation to CAA on £14bn expansion cost estimate</i>)</p> <p>Three IFS reports: (1) INDEPENDENT FUND SURVEYOR REPORT Heathrow Expansion – M4 Gateway Programme Estimate Review, dated 14 March 2019 (1) INDEPENDENT FUND SURVEYOR REPORT HAL Expansion – Pre Consent Category C Spend and Schedule Scenarios IFS Review, dated 6 September 2019 (2) HEP PRE-DCO CATEGORY C EXPENDITURE SCENARIOS: IFS Supplementary Paper – Scenarios 2a and 3a, dated 4 October 2019</p> <p>Minutes of the Costs and Benefits Working Group meeting 26 September 2019 and any other minutes which are relevant to the subject matter of the consultation report which would inform consultee views.</p>

Summary

Having considered your requests in line with the requirements of the EIR, the following materials are being disclosed, subject to redactions. Each document can be found at the relevant link.

- [Heathrow's Initial Business Plan, dated December 2019](#);
- [The Arcadis report commissioned by the CAA – “Heathrow Airport Limited Masterplan Review Step 0 Report”, dated October 2019](#);
- [HAL's submission on the CAA's Supplementary information request Pre-DCO category C costs, dated 30 September 2019](#).

The CAA considers that one or more exceptions to the obligation to disclose under the EIR applies to the remaining materials that you have requested, and that the relevant public interests outweigh the public interest in disclosure in relation to each of them. As a result, these materials are not being disclosed in response to your request. Our reasons for these decisions are set out below, dealing first with the materials that we are disclosing and then moving on to the other materials.

We note that your requests were made under both the Freedom of Information Act 2000 (FOIA) and the EIR. Having considered section 39 of FOIA, we are dealing with your requests under the EIR.

We have set out the CAA's position on the application of the EIR to these documents below.

Heathrow Airport Ltd's ("HAL") Initial Business Plan dated December 2019 ("the IBP")

The CAA has concluded that the IBP should be disclosed, subject to a number of redactions for the reasons set out below.

Regulation 12(5)(d) - confidentiality of proceedings

The submission of HAL's IBP is a formal part of the CAA's price control process for setting the next price control for HAL. To the extent that HAL does not consent to its disclosure, the information contained in it is, in the CAA's hands, protected by the prohibition on disclosure set out in Schedule 6 of the Civil Aviation Act 2012 ("CAA12"). As such, the IBP falls within the exception for the confidentiality of proceedings set out in regulation 12(5)(d) to the extent that the confidentiality of the CAA's proceedings would be adversely affected by disclosure.

This adverse affect would be particularly strong in relation to the material in the IBP that relates to HAL's proposals for incentives, depreciation, overall choice of approach and revenue. The CAA will need to consider these proposals further and it is likely that its ability to do so will be adversely affected, at least in the short to medium term, if it is disclosed. This is because this material, if made public, would be likely to "anchor" the debate around data that has not, as yet, been tested by the CAA or subject to policy decisions.

Assessment of the public interest

The public interest in favour of disclosure includes that there is a general interest in transparency of the CAA's processes, especially in the context of a project as high profile as Heathrow expansion. In that context, the more information in the public domain, the more likely that there can be a properly informed public debate about the project. The expansion of Heathrow airport is a nationally significant project that will have significant impacts, both locally and nationally, on local communities as well as airport users, so there is significant public interest in ensuring that all aspects of the case for the development, environmental and economic, are sufficiently scrutinised.

It can be argued that this is particularly important at a relatively early stage of the project, before HAL commits to spending very significant sums on early costs in the absence of planning consent in the form of a Development Consent Order ("DCO"). There is also a general presumption in favour of disclosure and a general public interest in the disclosure of environmental information.

The public interest against disclosure includes that there is a general public interest in favour of keeping confidential information confidential. In this case, this public interest is represented by the statutory prohibition on disclosure in CAA12. If provisional data were to be disclosed, the willingness of HAL to share provisional data with the CAA would be damaged. While the CAA does have statutory information gathering powers, it would be more difficult, and less timely, for the CAA to obtain the same level of data using its formal powers, damaging the effectiveness of the CAA's approach to regulation contrary to the interests of consumers and the public interest.

However, given that the IBP is central to HAL's ability to be able to provide evidence to the CAA for the price control that the CAA sets, the risk that disclosure would hamper the ability of the CAA to gather information effectively from HAL is more significant in relation to some information in the IBP than other information. There is also a significant public interest in

transparency given that the IBP is being used by the CAA to prepare its initial proposals for HAL's next price control, and for a number of forthcoming consultations.

The CAA has also taken into account the fact that the public interest in disclosure will, to a significant extent, be satisfied by the other ways in which the project is being scrutinised and debated (including opportunities for public participation). For the expansion of Heathrow, these include:

- the two rounds of public consultation that led up to the Government's decision to designate Heathrow expansion as its preferred option for a new runway in the south east of England in its Airports National Policy Statement;
- the CAA's own consultation processes for the development of the regulatory regime for expansion, which is public and which does elicit comments both from industry participants and the wider public. These consultations include the CAA's consultation on early costs in December 2019 which contained relevant summary information from the IFS reports on early costs;
- the public consultation processes that HAL is required to undertake in the preparation for submitting its application for development consent under the planning process; and
- the process for scrutinising any application for development consent made by HAL that would be undertaken by the Planning Inspectorate ("PINS").

Each of these processes (and particularly the process undertaken by PINS) will lead to very significant levels of disclosure which may go a long way to satisfying the public interest in the issues surrounding Heathrow expansion being scrutinised effectively, and publicly.

In balancing the arguments on both sides, the CAA has concluded that, for the majority of the material in the IBP, the significant public interest in transparency outweighs the public interest in maintaining the confidentiality of the CAA's proceedings and, therefore, the IBP should be disclosed. However, in the CAA's view, the public interest against disclosure is much stronger in relation to a limited set of materials contained in the IBP. As explained above, given that HAL's proposals, if made public, would be likely to "anchor" the debate around data that has not, as yet, been tested by the CAA or subject to policy decisions, it is likely that publication would adversely affect the CAA's policy making to a significant extent. As such, the publication of this data would lead to the CAA's ability to set HAL's price control effectively being diminished, and so would be to the detriment of consumers and the public interest. In relation to this limited set of materials contained in the IBP, the CAA has concluded that the public interest in maintaining the exception outweighs the public interest in disclosure, and therefore that material has been redacted.

Regulation 12(5)(e) - confidentiality of commercial or industrial information

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, significant amounts of the information contained in the IBP engages this exception.

In reaching this conclusion, the CAA has taken into account the four-stage test included in the Information Commissioner's guidance on this exception.

The information is commercial or industrial in nature

Significant amounts of the information contained in the IBP is clearly commercial in nature. It relates to the commercial activities of HAL, and it is not in the public domain.

Confidentiality is provided by law

The Information Commissioner's guidance advises that, in this context, this will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.

The IBP is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure in CAA12.

The confidentiality is protecting a legitimate economic interest

Disclosure of the information would make public confidential and commercially sensitive information owned by HAL, which, if disclosed, would be more likely than not to adversely affect HAL's legitimate economic interests in relation to its ability to contract efficiently with suppliers and its position in relation to competing or alternative schemes.

The confidentiality would be adversely affected by disclosure

As set out in the Information Commissioner's guidance, once the first three elements are established, the Commissioner considers it is inevitable that this element will be satisfied.

Assessment of the public interest

The public interest in disclosure is as set out above.

The public interest against disclosure is in preventing harm to HAL's legitimate economic interests from the disclosure of confidential and commercially sensitive information provided to the CAA. Disclosure would provide potential commercial counterparties and competitors with valuable information on the breadth and detailed methodology that HAL is using to advance its proposals, which would damage the commercial position of HAL through that information being used by those third parties to their own advantage. For example, HAL's commercial bargaining position would be adversely affected if third parties knew how much HAL had budgeted for particular categories of costs and the anticipated timings of those costs. As a result, disclosure would undermine the cost efficiency of HAL's proposals and, therefore, damage the interests of consumers, which is contrary to the public interest.

The CAA has taken into account that the extent to which disclosure would adversely affect HAL's legitimate economic interests is more significant in relation to some information in the IBP than other information. There is also a significant public interest in transparency given that the IBP is being used by the CAA to prepare its initial proposals for HAL's next price control, and for a number of forthcoming consultations.

However, in the CAA's view, the IBP contains some information where there is a real risk that disclosure would damage the commercial position of HAL in relation to competing or alternative schemes and counterparties (such as suppliers and other contractual counterparties). Given that commercial damage to Heathrow would be likely to lead to costs being driven up, this would damage the interests of consumers in HAL being able to deliver both expansion and business as usual activities in an efficient way, and therefore would be contrary to the public interest.

There is also inherent public interest in confidential information being kept confidential and this is evidenced by the statutory provision in CAA12 protecting this information.

Furthermore, there is also a public interest in not enabling commercially sensitive information to be shared between actual or potential competitors and which is reflected in competition law. Undermining this through the application of the EIR would be significantly contrary to the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, for the majority of the material in the IBP, the significant public interest in transparency outweighs the public interest in maintaining the confidentiality of HAL's commercial or industrial information. However, in the CAA's view, the public interest against disclosure is much stronger in relation to a limited set of materials contained in the IBP. As explained above, the IBP

contains some information where there is a real risk that disclosure would damage the commercial position of HAL, leading to costs being driven up, against the interests of consumers, and therefore contrary to the public interest. In relation to this limited set of materials contained in the IBP, the CAA has concluded that the public interest in maintaining the exception outweighs the public interest in disclosure, and therefore that material has been redacted.

Arcadis report commissioned by the CAA – “Heathrow Airport Limited Masterplan Review Step 0 Report”, dated October 2019 (“the Arcadis Report”)

The CAA has concluded that the Arcadis Report should be disclosed, subject to a number of redactions for the reasons set out below.

Regulation 12(5)(d) - confidentiality of proceedings

The Arcadis report was commissioned and prepared as part of the CAA’s price control process for setting the next price control for HAL in relation to early costs. To the extent that HAL does not consent to its disclosure, the information provided by HAL to Arcadis and set out in the report is, in the CAA’s hands, protected by the prohibition on disclosure set out in CAA12 and publication of this material would adversely affect the confidentiality of the CAA’s proceedings. As such, the Arcadis report falls within the exception for the confidentiality of proceedings set out in regulation 12(5)(d) to the extent that the confidentiality of the CAA’s proceedings would be adversely affected by disclosure.

In the CAA’s view, publication of the unredacted report would make it more difficult for the CAA to obtain expert evidence on aspects of HAL’s proposals and make it more difficult to regulate HAL effectively, to the detriment of consumers. The Arcadis report includes information that HAL supplied to Arcadis subject to a confidentiality agreement, and disclosure of this material would undermine HAL’s ability to enforce that agreement. In the CAA’s view, disclosure of elements of the Arcadis report would undermine the relationship between HAL and the CAA and, by extension, the CAA’s ability to make appropriate decisions in the interests of consumers.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure includes that there is a general public interest in favour of keeping confidential information confidential. In this case, this public interest is represented by the statutory prohibition on disclosure in CAA12. In this particular case, there is also a significant public interest in the CAA being able to use consultants to carry out technical work and assessments to help inform its decision making. To the extent that the publication of an unredacted Arcadis report would undermine this, disclosure would make it more difficult for the CAA to obtain expert evidence on aspects of HAL’s proposals and make it more difficult to regulate HAL effectively, to the detriment of consumers and therefore contrary to the public interest.

At the same time, there is a significant public interest in transparency given that HAL is seeking to spend significant sums in advance of obtaining planning consent for expansion, and that these costs are likely to be largely borne by consumers in any event. This is backed by the public interest in the transparency of the CAA’s work to prepare its policy for the regulatory treatment of these early costs.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, for the majority of the material in the Arcadis report, the significant public interest in transparency outweighs the public interest in maintaining the confidentiality of the CAA’s proceedings, and therefore

the Arcadis report should be disclosed. However, in the CAA's view, the public interest against disclosure is much stronger in relation to a limited set of materials contained in the Arcadis report. As explained above, there is a significant public interest in the CAA's ability to regulate HAL effectively, to the benefit of consumers, which would be undermined if the CAA were unable to obtain expert evidence on elements of HAL's proposals. In relation to this limited set of materials contained in the Arcadis report, the CAA has concluded that the public interest in maintaining the exception outweighs the public interest in disclosure, and therefore that material has been redacted.

Regulation 12(5)(e) - confidentiality of commercial or industrial information

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, significant amounts of the information contained in the Arcadis report engages this exception.

In reaching this conclusion, the CAA has taken into account the four-stage test included in the Information Commissioner's guidance on this exception.

The information is commercial or industrial in nature

Significant amounts of the information contained in the Arcadis report is clearly commercial in nature. It relates to the commercial activities of HAL, and it is not in the public domain. Certain information contained in the Arcadis report was provided to Arcadis by HAL under a contractual confidentiality duty, and publication of this information would materially prejudice HAL's future commercial bargaining position with suppliers and other third parties, and provide competing or alternative schemes with commercially valuable information.

Confidentiality is provided by law

The Information Commissioner's guidance advises that, in this context, this will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.

The Arcadis report is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure in CAA12, as well as the confidentiality agreements entered into by HAL and Arcadis.

The confidentiality is protecting a legitimate economic interest

Disclosure of the information would make public confidential and commercially sensitive information owned by HAL, which, if disclosed, would be more likely than not to adversely affect HAL's legitimate economic interests in relation to its ability to contract efficiently with suppliers and its position in relation to competing or alternative schemes.

The confidentiality would be adversely affected by disclosure

As set out in the Information Commissioner's guidance, once the first three elements are established, the Commissioner considers it is inevitable that this element will be satisfied.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure is in preventing harm to HAL's legitimate economic interests from the disclosure of confidential and commercially sensitive information provided to the CAA. Disclosure would undermine the cost efficiency of HAL's proposals and, therefore, damage the interests of consumers, which is contrary to the public interest. The CAA has, however, taken into account that the extent to which disclosure would adversely affect HAL's legitimate economic interests is more significant in relation to some information in the Arcadis report than other information.

In the CAA's view, the Arcadis report contains some information where there is a real risk that disclosure would damage the commercial position of HAL in relation to competing or alternative schemes and counterparties (such as suppliers and other contractual counterparties). Given that commercial damage to HAL would be likely to lead to costs being driven up, this would damage the interests of consumers in HAL being able to deliver both expansion and business as usual activities in an efficient way, and therefore would be contrary to the public interest.

There is also inherent public interest in confidential information being kept confidential and this is evidenced by the statutory provision in CAA12 protecting this information and the contractual confidentiality arrangements between HAL and Arcadis.

Furthermore, there is also a public interest in not enabling commercially sensitive information to be shared between actual or potential competitors and which is reflected in competition law. Undermining this through the application of the EIR would be significantly contrary to the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, for the majority of the material in the Arcadis report, the significant public interest in transparency outweighs the public interest in maintaining the confidentiality of HAL's commercial or industrial information. However, in the CAA's view, the public interest against disclosure is much stronger in relation to a limited set of materials contained in the Arcadis report. As explained above, the Arcadis report contains some information where there is a real risk that disclosure would damage the commercial position of HAL, leading to costs being driven up, against the interests of consumers, and therefore contrary to the public interest. In relation to this limited set of materials contained in the Arcadis report, the CAA has concluded that the public interest in maintaining the exception outweighs the public interest in disclosure, and therefore that material has been redacted.

HAL's submission on the CAA's Supplementary information request Pre-DCO category C costs, dated 30 September 2019 ("the Category C submission")

The CAA has concluded that the Category C submission should be disclosed, subject to a number of redactions for the reasons set out below.

Regulation 12(5)(e) - confidentiality of commercial or industrial information

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, the information contained in the Category C submission engages this exception.

In reaching this conclusion, the CAA has taken into account the four-stage test included in the Information Commissioner's guidance on this exception.

The information is commercial or industrial in nature

The Category C submission is clearly commercial in nature. It relates to the commercial activities of HAL, and it is not in the public domain. Significant amounts of the information contained in the report are commercially sensitive and HAL's commercial bargaining position would be adversely affected if third parties knew how much HAL had budgeted for particular categories of costs and the anticipated timings of those costs.

Confidentiality is provided by law

The Information Commissioner's guidance advises that, in this context, this will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.

The Category C submission is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure in CAA12.

The confidentiality is protecting a legitimate economic interest

Disclosure of the information would make public confidential and commercially sensitive information owned by HAL, which, if disclosed, would be more likely than not to adversely affect HAL's legitimate economic interests in relation to its ability to contract efficiently with suppliers and its position in relation to competing or alternative schemes.

The confidentiality would be adversely affected by disclosure

As set out in the Information Commissioner's guidance, once the first three elements are established, the Commissioner considers it is inevitable that this element will be satisfied.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure is in preventing harm to HAL's legitimate economic interests from the disclosure of confidential and commercially sensitive information provided to the CAA. Disclosure would provide potential commercial counterparties and competitors with valuable information on the breadth and detailed methodology that HAL is using to advance its proposals, which would damage the commercial position of HAL through that information being used by those third parties to their own advantage. HAL's commercial bargaining position would be adversely affected if third parties knew how much HAL had budgeted for particular categories of costs and the anticipated timings of those costs. As a result, disclosure would undermine the cost efficiency of HAL's proposals, and therefore damage the interests of consumers, which is contrary to the public interest.

The CAA has taken into account that the extent to which disclosure would adversely affect HAL's legitimate economic interests is only significant in relation to a limited set of information in the Category C submission. In the CAA's view, in relation to this information there is a real risk that disclosure would damage the commercial position of HAL in relation to competing or alternative schemes and counterparties (such as suppliers and other contractual counterparties). Given that commercial damage to Heathrow would be likely to lead to costs being driven up, this would damage the interests of consumers in HAL being able to deliver both expansion and business as usual activities in an efficient way, and therefore would be contrary to the public interest.

There is also inherent public interest in confidential information being kept confidential and this is evidenced by the statutory provision in CAA12 protecting this information.

Furthermore, there is also a public interest in not enabling commercially sensitive information to be shared between actual or potential competitors and which is reflected in competition law. Undermining this through the application of the EIR would be significantly contrary to the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, for the majority of the material in the Category C submission, the significant public interest in transparency outweighs the public interest in maintaining the confidentiality of HAL's commercial or industrial information. However, in the CAA's view, the public interest against disclosure is

much stronger in relation to a limited set of materials contained in the Category C submission. As explained above, the Category C submission contains some information where there is a real risk that disclosure would damage the commercial position of HAL, leading to costs being driven up, against the interests of consumers, and therefore contrary to the public interest. In relation to quarterly budgeted costs specifically, the public interest is also met to a considerable extent by the publication of total figures, with more granular information, which is only likely to benefit a small number of individuals and companies rather than the wider public interest, being redacted. In relation to this limited set of materials contained in the Category C submission, the CAA has concluded that the public interest in maintaining the exception outweighs the public interest in disclosure, and therefore that material has been redacted.

Correspondence, including emails, meeting notes, reports and notes from telephone calls relevant to HAL's business case

The CAA has concluded that this information should not be disclosed, for the reasons set out below.

Regulation 12(4)(b) – manifestly unreasonable

Regulation 12(4)(b) of the EIR provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable and, for the reasons set out below, the CAA considers that this exception applies to this part of your requests.

This part of your requests is very wide, and would be very time consuming for the CAA to review all potentially relevant materials in order to assess them individually to determine whether:

- they are relevant to HAL's business case, and to what extent;
- other exceptions from the duty to disclose might apply; and
- to the extent that those other exceptions apply, whether the materials should be disclosed subject to appropriate redactions.

This analysis would need to be conducted in the light of the likely application of other exceptions as with the other materials that are the subject of your requests. Given that each stage of this analysis would be likely to be very detailed, it would be likely to take a significant staff requirement to undertake this activity.

In addition, given that this part of your requests is focussed on correspondence, the material, and emails in particular, are likely to include significant amounts of personal data that is likely to be subject to the exception to disclosure in Regulation 13, and would take significant time to redact. Since it is likely that much of the material in question is also covered in HAL's IBP, which the CAA has concluded should be disclosed subject to a number of redactions, spending a significant amount of time assessing these materials to identify information relevant to HAL's business case and determine the applicability, or otherwise, of the relevant exceptions is likely to be manifestly disproportionate to the amount of additional information put in the public domain.

The CAA has also taken into account that, at the time of writing, [REDACTED] has made 10 separate information requests related to Heathrow expansion since September 2019. Eight of those requests have been made since 19 December 2019. These requests cover, in total, a very significant amount of information (including these materials).

Many members of the CAA's economic regulation team have been involved in discussions on HAL's IBP from as far back as 2015, since the original H7 timetable assumed that the IBP would be provided in early 2017. It is estimated that at least 15 members of the Heathrow programme team would be likely to have information that is relevant but, given the nature of the information request, this data is not readily available and would take considerable time to identify and gather. It is estimated that it would take at least four hours

for each team member to thoroughly check their own files. This estimate does not cover the further analysis of the material that would be required once it had been gathered, which would be likely to be very significant in itself.

As a result identifying and gathering any relevant information, and the subsequent analysis, would have a very significant impact on the CAA's capacity to carry out its regulatory activities in the development of the regulatory regime for HAL. This impact is compounded by the already significant amount of time taken to analyse the other requests made by [REDACTED] which is already having an impact on the CAA's ability to deliver its assessment of HAL's IBP, and other work for HAL's price control, in a timely manner.

For the four requests that are responded to in this letter alone, the CAA estimates that it has spent significantly over 100 hours in identifying, reviewing and analysing the relevant material. As such, compliance with this request has already taken up very significant CAA resources, and is affecting the delivery of the CAA's work on developing the regulatory regime for Heathrow and the H7 price control.

Taking all the above into consideration, it is the CAA's view that the exception contained in Regulation 12(4)(b) of the EIR, which provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable, is engaged in relation to this part of your requests.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest in maintaining the exception lies in protecting public authorities such as the CAA from exposure to a disproportionate burden in handling requests for information and its impact on core operations. As has been explained above, the burden of responding to this part of your request would be significant and disproportionate, compounded by the already significant amount of time taken to analyse the other requests made by [REDACTED]

As outlined above, dealing with this part of your requests would substantially interfere with the CAA's work on developing the regulatory regime for Heathrow and the H7 price control. This would be contrary to the public interest in the CAA being able to further the interests of consumers in the discharge of its duties under CAA12 in an efficient and expeditious manner.

As noted, much of the material in question is also covered in HAL's IBP itself, and it is likely that other exceptions will apply to significant amounts of the material falling under this part of your requests. As a result, the amount of additional information put in the public domain is not likely to be significant. Much of the public interest in disclosure will, in the CAA's view, be adequately met by the disclosure of the IBP and the Arcadis report and the burden of considering the material falling under this part of your requests, and its impact on the CAA's ability to discharge its duties under CAA12, would be disproportionate.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the material falling under this part of your requests, the public interest in maintaining the exception outweighs the public interest in disclosure.

Having considered the matter, the CAA considers that it is unable to give more specific advice as to how a request might be framed so as to not engage this exception, other than to narrow the scope of any request so that that it is less wide ranging.

Heathrow Expansion Update: CAA Deep dive, dated 28th January 2019 (“the CAA deep dive presentation”)

The CAA has concluded that this document should not be disclosed, for the reasons set out below.

Regulation 12(5)(d) - confidentiality of proceedings

The CAA received this presentation directly as part of its work in carrying out its functions under CAA12 to set a price control for HAL. The information contained in it is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure set out in CAA12. As such, the CAA deep dive presentation falls within the exception for the confidentiality of proceedings set out in regulation 12(5)(d) to the extent that the confidentiality of the CAA's proceedings would be adversely affected by disclosure.

Were this information to be made public, the effectiveness of the CAA's ability to understand HAL's plans and, therefore, regulate HAL, would be adversely affected since:

- HAL would not be so open with the CAA (and has indicated this to the CAA); and
- it would take significantly more time and effort (and, in some areas, is likely to be impossible) for the CAA to obtain equivalent information to that otherwise freely provided by HAL if the CAA were to be required to use its information gathering powers under CAA12 instead.

If this were to be the case, the effectiveness of the CAA's ability to regulate HAL's expenditure would be likely to be diminished.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure includes that there is a general public interest in favour of keeping confidential information confidential. In this case, this public interest is represented by the statutory prohibition on disclosure in CAA12.

As outlined above, if the CAA deep dive presentation were to be disclosed it would be likely to adversely affect the free flow of information to the CAA, undermining the effectiveness of the CAA's regulatory oversight of HAL and the price control process, in the context of which this presentation was provided to the CAA. This would happen because the CAA's ability to regulate HAL's expenditure would be likely to be diminished, to the detriment of consumers, because they would be likely to be exposed to higher costs through airport charges if the CAA is unable to discharge its duties as effectively as possible. Such detriment to consumers would be contrary to the public interest.

Publication would also affect the confidentiality of information about HAL's proposed expenditure, and this would affect its legitimate interests in terms of its ability to contract efficiently with suppliers. At the same time, disclosure would clearly undermine HAL's ability to keep its commercial plans confidential from competing or alternative schemes. To the extent relevant to this exception, those reasons also weigh strongly in favour of maintaining the exception.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the CAA deep dive presentation, the public interest in maintaining the exception outweighs the public interest in disclosure.

Regulation 12(5)(e) - confidentiality of commercial or industrial information

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, the information contained in the CAA deep dive presentation engages this exception.

In reaching this conclusion, the CAA has taken into account the four-stage test included in the Information Commissioner's guidance on this exception.

The information is commercial or industrial in nature

The CAA deep dive presentation is clearly commercial in nature. It relates to the commercial activities of HAL, and it is not in the public domain.

Confidentiality is provided by law

The Information Commissioner's guidance advises that, in this context, this will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.

The CAA deep dive presentation is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure in CAA12.

The confidentiality is protecting a legitimate economic interest

Disclosure of the information would make public confidential and commercially sensitive information owned by HAL, which, if disclosed, would be more likely than not to adversely affect HAL's legitimate economic interests in relation to its ability to contract efficiently with suppliers and its position in relation to competing or alternative schemes.

The confidentiality would be adversely affected by disclosure

As set out in the Information Commissioner's guidance, once the first three elements are established, the Commissioner considers it is inevitable that this element will be satisfied.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure is in preventing harm to HAL's legitimate economic interests from the disclosure of confidential and commercially sensitive information provided to the CAA. It is clear that publication would affect the confidentiality of information about HAL's proposed expenditure and that this would affect its legitimate interests in terms of its ability to contract efficiently with suppliers. At the same time, disclosure would clearly undermine HAL's ability to keep its commercial plans confidential from competing or alternative schemes.

If HAL's legitimate interests were affected in this way, it would be likely to have an adverse impact on consumers because HAL would not be able to contract with suppliers and commercial counterparties in the most efficient manner. This would be the case because potential suppliers and other contractual counterparties would be able to have insight into HAL's budgeting, thereby undermining HAL's commercial position in negotiations. This would lead to HAL and consumers facing higher costs, to their detriment and contrary to the public interest.

There is also inherent public interest in confidential information being kept confidential and this is evidenced by the statutory provision in CAA12 protecting this information.

While there may be a public interest in competing or alternative schemes obtaining more information in order to progress their plans in a manner that puts more competitive pressure on HAL to deliver efficiently, the sharing of confidential commercial information between actual or potential competitors is generally unlawful under competition law as this damages

competition and therefore consumers. Undermining this through the application of the EIR would be significantly contrary to the public interest.

In the CAA's view, there are very strong public interests arising not only out of the confidential nature of the information in question, but also the damage that would be caused to market dynamics by the publication of this information, each of which could have a detrimental impact on consumers, and therefore the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the CAA deep dive presentation, the public interest in maintaining the exception outweighs the public interest in disclosure.

Minutes of the 26 September 2019 Costs and Benefits Working Group and the three IFS reports

These materials are considered together, since the appointment of the Independent Fund Surveyor ("IFS") is a function of the capital expenditure governance arrangements for HAL that are used by the CAA to inform its regulation of HAL, and will be used as part of the CAA's process to set the H7 price control.

The CAA has concluded that this information should not be disclosed, for the reasons set out below.

Regulation 12(5)(d) - confidentiality of proceedings

The CAA attends, as an observer, and receives the minutes of HAL's Costs and Benefits Working Group ("CBWG") (and hence the IFS reports which were presented to the CBWG) "by virtue of" the CAA carrying out its functions under CAA12. The CBWG is part of the "proceedings" of the CAA as it forms part of the formal governance process established by HAL to take forward its proposals for capacity expansion. These, in turn, are an important element of the CAA's overall oversight of HAL in its role as economic regulator of HAL under CAA12. This oversight includes the CBWG which provides airlines with the opportunity to review and challenge HAL's capital expenditure proposals.

As such, the CBWG (and therefore the materials presented to it, including the IFS reports) forms part of the mechanisms by which the CAA carries out its formal oversight of HAL and feeds into its price control processes. The CBWG also provides the CAA with the opportunity to observe the quality of engagement between airlines and HAL, which also forms part of the evidence base used by the CAA to set the price control for HAL. The CBWG, therefore, forms part of the CAA's "proceedings" for regulating HAL and, ultimately, for conducting price control reviews.

The minutes of the 26 September CBWG and the three IFS reports are therefore, in the CAA's hands, protected by the prohibition on disclosure set out in CAA12. As such, these materials fall within the exception for the confidentiality of proceedings set out in regulation 12(5)(d) to the extent that the confidentiality of the CAA's proceedings would be adversely affected by disclosure.

In the CAA's view, the disclosure of the 26 September CBWG minutes and IFS reports would clearly adversely affect the confidentiality of this aspect of the CAA's proceedings for the formal oversight of HAL by making what would otherwise be confidential materials public. The participants in the CBWG take part in those discussions in good faith that the proceedings are private, and this is reinforced by the confidentiality arrangements that HAL and airlines entered into in setting up this group. Disclosure would adversely affect the

confidentiality of those meetings and the information passing between the parties (as well as to the CAA) at those meetings.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure includes that there is a general public interest in favour of keeping confidential information confidential. In this case, this public interest is represented by the statutory prohibition on disclosure in CAA12. It would also be likely to be the case, if this information about the CBWG and the reports that it commissions were to be made public, that:

- the effectiveness of the CBWG would be undermined as a forum in which HAL and airlines can discuss HAL's proposals for expansion, and the CAA can gather information about HAL's plans and progress (the effectiveness of HAL's engagement with airlines being a key consideration in the CAA's approach to regulation); and
- it would take significantly more time and effort for the CAA to obtain this information (and gathering the same level of information would, in some cases, such as assessing HAL's approach to engaging with airlines, be impossible) using its information gathering powers under CAA12.

Furthermore, as outlined above the participants of the CBWG take part in those discussions in good faith that the proceedings are private, and disclosure would impact the confidentiality of those meetings and the information passing between the parties (and to the CAA) at those meetings. As a result, the effectiveness of the CBWG would be undermined and this would mean that the CBWG would be less likely to provide effective review and challenge to HAL, which would not be in consumers' interests.

Disclosure would also affect the confidentiality of information about HAL's proposed expenditure, and this would affect its legitimate interests in terms of its ability to contract efficiently with suppliers. At the same time, disclosure would clearly undermine HAL's ability to keep its commercial plans confidential from competing or alternative schemes. To the extent relevant to this exception, those reasons also weigh strongly in favour of maintaining the exception.

If such information were to be disclosed it would be likely to adversely affect the free flow of information to the CAA, undermining the effectiveness of the CAA's regulatory oversight of HAL and the price control process of which the CBWG forms a part. This would happen because the CAA's ability to regulate HAL's expenditure would be likely to be diminished, to the detriment of consumers, because they would be likely to be exposed to higher costs through airport charges if the CAA is unable to discharge its duties as effectively as possible. Such detriment to consumers would be contrary to the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the minutes of the 26 September CBWG and the three IFS reports, the public interest in maintaining the exception outweighs the public interest in disclosure.

Regulation 12(5)(e) - confidentiality of commercial or industrial information

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, the minutes of the 26 September CBWG and the three IFS reports engage this exception.

In reaching this conclusion, the CAA has taken into account the four-stage test included in the Information Commissioner's guidance on this exception.

The information is commercial or industrial in nature

The material contains a significant amount of commercially sensitive material relating to HAL and airlines, and it is not in the public domain.

Confidentiality is provided by law

The Information Commissioner's guidance advises that, in this context, this will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.

The IBP is, in the CAA's hands, to the extent that HAL does not consent to its disclosure, protected by the prohibition on disclosure in CAA12, as well as the confidentiality agreements entered into by HAL and airlines.

The confidentiality is protecting a legitimate economic interest

Disclosure of the information would make public confidential and commercially sensitive information owned by HAL and airlines, which, if disclosed, would be more likely than not to adversely affect those parties' legitimate economic interests. In relation to HAL, the publication of a significant amount of commercially sensitive information about the development of HAL's plans for expansion would be very useful to suppliers, contractual counterparties and competing or alternative schemes if it were to be published. In relation to airlines, publication would reveal their commercial positions in relation to the development of new capacity.

The confidentiality would be adversely affected by disclosure

As set out in the Information Commissioner's guidance, once the first three elements are established, the Commissioner considers it is inevitable that this element will be satisfied.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest against disclosure is in preventing harm to HAL's legitimate economic interests from the disclosure of confidential and commercially sensitive information provided to the CAA. As noted above, it is clear that publication would affect the confidentiality of information about HAL's proposed expenditure and that this would affect its legitimate interests in terms of its ability to contract efficiently with suppliers. At the same time, disclosure would clearly undermine HAL's ability to keep its commercial plans confidential from competing or alternative schemes.

There is also inherent public interest in confidential information being kept confidential and this is evidenced by the statutory provision in CAA12 protecting this information.

The release of this material would also adversely affect the legitimate economic interests of other members of the CBWG, primarily airlines, whose interests are protected by the confidentiality agreements that all parties of the CBWG have entered into. Disclosure of these materials would undermine the ability of the parties to explore their views fully and freely in the future to ensure that HAL's plans are robust and well developed, among other things.

If HAL's legitimate interests were affected as described it would be likely to have an adverse impact on consumers because HAL would not be able to contract with suppliers and commercial counterparties in the most efficient manner. This would be the case because potential suppliers and other contractual counterparties would be able to have insight into, for example, HAL's budgeting, thereby undermining HAL's commercial position in negotiations. As a result, disclosure would undermine the cost efficiency of HAL's

proposals, and therefore damage the interests of consumers, which is contrary to the public interest.

There may be a public interest in competing or alternative schemes obtaining more information in order to progress their plans in a manner that puts more competitive pressure on HAL to deliver its proposals efficiently, driving down the costs of expansion. However, the sharing of confidential commercial information between actual or potential competitors is generally unlawful under competition law as this damages competition and therefore consumers. An approach to balancing the public interest under the EIR which led to information being shared between potential competitors that would not be permissible under competition law would be contrary to the interests of consumers and, therefore, against the public interest.

In the CAA's view, there are very strong public interests arising not only out of the confidential nature of the information in question, but also the damage that would be caused to market dynamics by the publication of this information, each of which could have a detrimental impact on consumers, and therefore the public interest.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the minutes of the 26 September CBWG and the three IFS reports, the public interest in maintaining the exception outweighs the public interest in disclosure.

Other meeting minutes for the Costs and Benefits Working Group relevant to the CAA's CAP1871 consultation which would inform consultee views ("other CBWG minutes")

The CAA has concluded that these documents should not be disclosed, for the reasons set out below.

Regulation 12(4)(b) – manifestly unreasonable

Regulation 12(4)(b) of the EIR provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable and, for the reasons set out below, the CAA considers that this exception applies to this part of your requests.

There have been in the region of 40 CBWG meetings so far and, as a result, it would be very time consuming for the CAA to review the minutes from all these meetings in order to assess them individually in order to determine whether:

- they are relevant to CAP 1871, and to what extent; and
- other exceptions from the duty to disclose might apply; and
- to the extent that those other exceptions apply, whether the materials should be disclosed subject to appropriate redactions.

This analysis would need to be conducted in the light of the likely application of other exceptions as set out above in relation to the minutes of the 26 September CBWG. Given that each stage of this analysis would be likely to be very detailed, it would be likely to take a significant staff requirement to undertake this activity. Since it is likely that much of the material in question is also covered in HAL's IBP, which the CAA has concluded should be disclosed subject to a number of redactions, spending a significant amount of time assessing these materials to identify information relevant to CAP 1871 and determine the applicability, or otherwise, of the relevant exceptions is likely to be manifestly disproportionate to the amount of additional information put in the public domain.

The CAA has also taken into account that, at the time of writing, [REDACTED] has made 10 separate information requests related to Heathrow expansion since September 2019. Eight of those requests have been made since 19 December 2019. These requests cover, in total, a very significant amount of information (including these materials).

Reviewing the minutes from all 40 CBWG meetings would have a very significant impact on the CAA's capacity to carry out its regulatory activities in the development of the regulatory regime for HAL. This impact is compounded by the already significant amount of time taken to analyse the other requests made by [REDACTED] which is already having an impact on the CAA's ability to deliver its assessment of HAL's IBP, and other work for HAL's price control, in a timely manner.

For the four requests that are responded to in this letter alone, the CAA estimates that it has spent significantly over 100 hours in identifying, reviewing and analysing the relevant material. As such, compliance with this request has already taken up very significant CAA resources, and is affecting the delivery of the CAA's work on developing the regulatory regime for Heathrow and the H7 price control.

Taking the above into consideration, it is the CAA's view that the exception contained in Regulation 12(4)(b) of the EIR, which provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable, is engaged in relation to your request for the other CBWG minutes.

Assessment of the public interest

The public interest in disclosure is as set out above in relation to the IBP.

The public interest in maintaining the exception lies in protecting public authorities such as the CAA from exposure to a disproportionate burden in handling requests for information and its impact on core operations. As has been explained above, the burden of responding to this part of your requests would be significant and disproportionate, compounded by the already significant amount of time taken to analyse the other requests made by [REDACTED]

As outlined above, dealing with this part of your requests would substantially interfere with the CAA's work on developing the regulatory regime for Heathrow and the H7 price control. This would be contrary to the public interest in the CAA being able to further the interests of consumers in the discharge of its duties under CAA12 in an efficient and expeditious manner.

As noted, much of the material in question is also covered in HAL's IBP, and it is likely that other exceptions will apply to significant amounts of the relevant material in the other CBWG minutes. As a result, the amount of additional information put in the public domain is not likely to be significant. Much of the public interest in disclosure will, in the CAA's view, be adequately met by the disclosure of the IBP and the Arcadis report, and the burden of considering the other CBWG minutes, and its impact on the CAA's ability to discharge its duties under CAA12, would be disproportionate.

As explained above, there will also be a significant extent to which the public interest in the proper scrutiny of proposals for the expansion of Heathrow has been, or is being, discharged through other processes.

In balancing the arguments on both sides, the CAA has concluded that, in relation to the other CBWG minutes, the public interest in maintaining the exception outweighs the public interest in disclosure.

Having considered the matter, the CAA considers that it is unable to give more specific advice as to how a request might be framed so as to not engage this exception, other than to narrow the scope of any request so that that it is less wide ranging.

A copy of all the relevant exceptions can be found in Annex 3 to this letter.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Caroline Chalk
Head of External Information Services
Civil Aviation Authority
Aviation House
Beehive Ring Road
Crawley
RH6 0YR

caroline.chalk@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with requests under the Environmental Information Regulations. The key steps in this process are set out in the attachment.

Should you remain dissatisfied with the outcome you have a right to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

<https://ico.org.uk/concerns/>

If you wish to request further information from the CAA, please use the form on the CAA website at <http://publicapps.caa.co.uk/modalapplication.aspx?appid=24>.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Stevens'.

Mark Stevens
External Response Manager

Annex 1 – information requests

E004605 dated 19 December 2019

Please provide us with a copy of Heathrow Airport Limited's Business Case for the North West Runway provided to the CAA. To the extent that information is relevant to HAL's business case for the North West Runway and is in the possession of the CAA please also include all relevant correspondence, including emails, meeting notes, reports and notes from any telephone calls relevant to Heathrow Airport Limited's business case.

E004610 dated 20 December 2019

We note that the CAA yesterday (19 December 2019) released a consultation report entitled: 'Economic regulation of Heathrow Airport Limited: policy update and consultation on the early costs of capacity expansion' and seeks views prior to 28 February 2020. The Consultation Report makes reference to documentation which is required by our client to provide views on this consultation.

Please provide:

- *Any relevant information pertaining to Tables T3 and appendix B1 which informs the costs referenced;*
- *The total capital cost of North West Runway has been quoted as £14bn (2014 prices) please provide us with documentation which supports this sum;*
- *Appendix F1(a) refers to "third runway and associated works" please provide documentation which details what this associated works includes;*
- *IFS October 2019 report and supplementary review/addendum;*
- *HAL minutes of cost and budget meetings;[*]*
- *IFS M4 estimate review March 2019; and*
- *Arcadis October 2018 master plan review.*

This information is all required to respond substantively to the consultation and its disclosure is in the public interest.

To the extent that information is relevant to HAL's costs analysis for the North West Runway and is in the possession of the CAA please also include all relevant correspondence, including emails, meeting notes, reports and notes from any telephone calls relevant to Heathrow Airport Limited's business case.

* This aspect of your request was subsequently refined to:

In relation to our FOI request 20 December 2019 below we seek HAL's minutes of the Costs and Benefits Working Group meeting 26 September 2019 and any other minutes which are relevant to the subject matter of the consultation report which would inform consultee views.

E004613 dated 23 December 2019

Throughout the consultation report referred to in our email below, the CAA refers to costs and delivery of an assumed capacity expansion. However, the report does not provide any analysis of exactly what new capacity would be released by the first phase of the proposed North West Runway.

Therefore, pursuant to the Act and/or the Regulations, please provide all analysis relating to the new capacity which would be released by the first phase of the proposed North West Runway at Heathrow Airport (what the Consultation Report refers to as the 'third runway and associated works'), including but not limited to:

- *terminal and processing capacity;*
- *taxiway/stand capacity;*
- *resilience; and*
- *respite.*

For the avoidance of doubt our request includes all information supplied to the CAA by Heathrow Airport Limited and any third parties/consultees, as well as any independent analysis undertaken or commissioned by the CAA.

E004614 dated 27 December 2019

We understand that Heathrow Airport Limited (“HAL”) has submitted or intends to submit its detailed costing for the proposed North West Runway, which includes an option to spend an additional £3 billion to improve rail links and passenger service. This detailed costing information is not currently available on HAL’s website, nor have we been able to obtain copies of this document elsewhere. Therefore, we request copies of all detailed costing information submitted by HAL to the CAA in relation to its proposed North West Runway and associated works.

Annex 2 - CAA Internal Review and Complaints procedure

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Annex 3 – exceptions

Regulation 12 of the Environmental Information Regulations 2004

- (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—
- (a) an exception to disclosure applies under paragraphs (4) or (5); and
 - (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
- (2) A public authority shall apply a presumption in favour of disclosure.
- (3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.
- (4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—
- (a) it does not hold that information when an applicant's request is received;
 - (b) the request for information is manifestly unreasonable;
 - (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
 - (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
 - (e) the request involves the disclosure of internal communications
- 5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—
- (a) international relations, defence, national security or public safety;
 - (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
 - (c) intellectual property rights;
 - (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
 - (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
 - (f) the interests of the person who provided the information where that person—
 - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
 - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
 - (iii) has not consented to its disclosure; or
 - (g) the protection of the environment to which the information relates.

Environmental Information Regulations – Regulations 13

(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.

(2) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—

(i) any of the data protection principles; or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress) and in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it; and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998(1) (which relate to manual data held by public authorities) were disregarded.

(3) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1) of that Act and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.

(4) In determining whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

(5) For the purposes of this regulation a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information, to the extent that—

(a) the giving to a member of the public of the confirmation or denial would contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded; or

(b) by virtue of any provision of Part IV of the Data Protection Act 1998, the information is exempt from section 7(1)(a) of that Act.