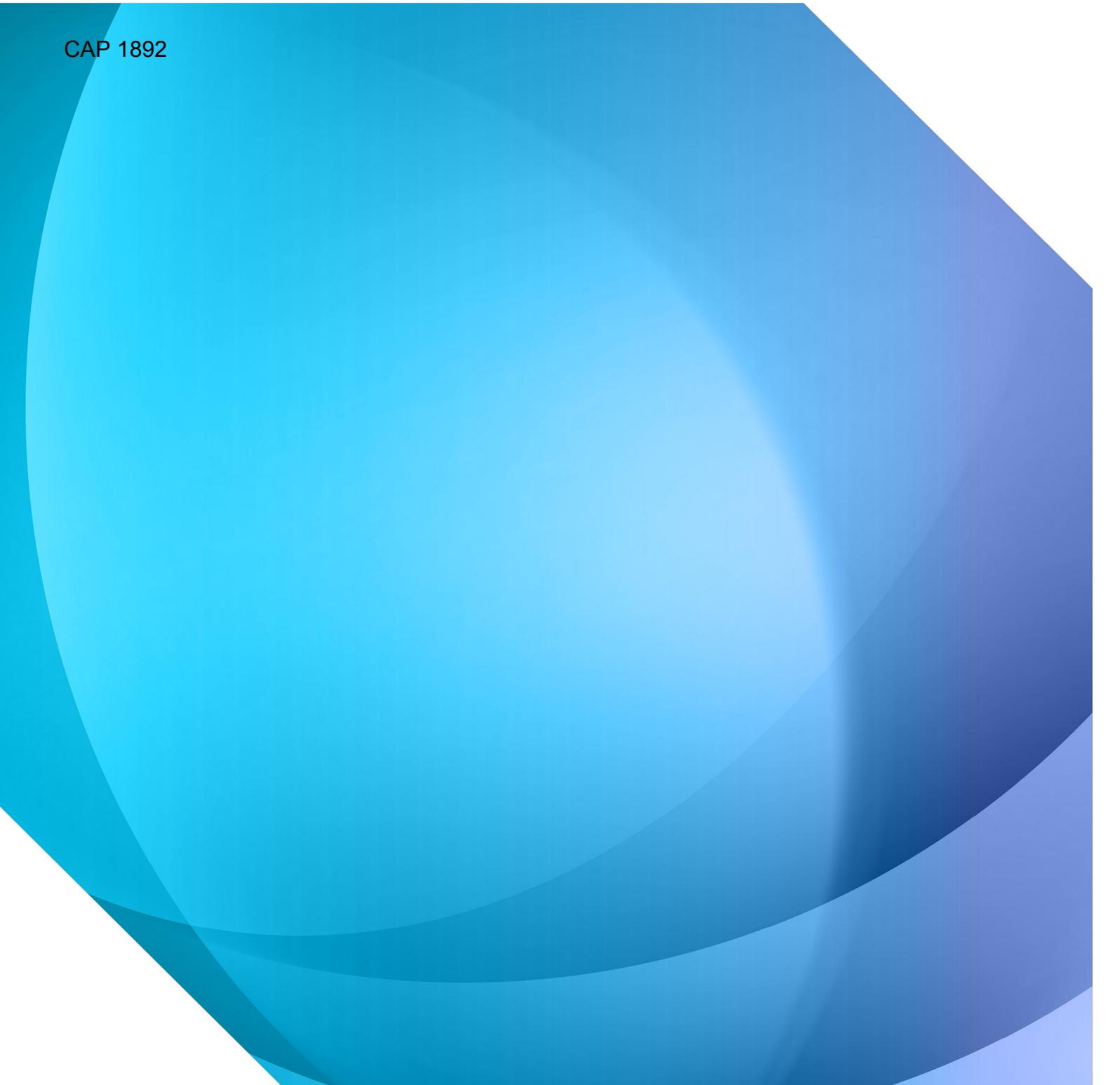


The Civil Aviation Authority's response to Heathrow Airport Limited's public consultation on airport expansion

CAP 1892

A large, abstract graphic composed of overlapping, semi-transparent blue shapes in various shades, ranging from light cyan to deep navy blue. The shapes are curved and layered, creating a sense of depth and movement. The graphic occupies the lower two-thirds of the page.

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The CAA's response to HAL's public consultation on airport expansion

Introduction

1. The Civil Aviation Authority (CAA) welcomes the opportunity to respond to Heathrow Airport Limited's (HAL) public consultation on airport expansion.
2. We note that the decision to designate the draft Airports National Policy Statement (NPS) for the development of new runway capacity and infrastructure at airports in the south east of England lies with the Government. While the CAA does not decide where new runways should be built, the CAA has consistently stated that additional runway capacity in the south east of England would benefit passengers and cargo owners. More runway capacity is required to prevent future consumers experiencing higher airfares, reduced choice and lower service quality.
3. The CAA has a number of statutory functions which impact on the success of any scheme proposed to meet or deliver the objective of the Airports NPS, if designated.
4. We are using our response to this public consultation to provide clarity and transparency on the roles and responsibilities we are performing and will continue to perform with respect to the proposed Northwest runway scheme at Heathrow airport. We also note that should the Airports NPS be designated by the Government, the scheme for a Northwest runway at Heathrow airport will become a Nationally Significant Infrastructure Project for the purposes of the planning regime.
5. A number of HAL's proposals for expansion will be subject to CAA regulatory processes and approval. Some of these regulatory processes are already under way.
6. We have engaged, and will continue to engage with HAL over the coming months to understand its proposals for expansion insofar as they relate to our relevant regulatory roles and statutory functions. For each new chapter, click on chapter number - this will add the next chapter number automatically, and will update the header.

The CAA's regulatory roles and statutory functions

7. The CAA is the UK's specialist aviation regulator. We ensure that:
 - the aviation industry meets the highest safety standards;
 - consumers have choice, value for money, are protected and treated fairly when they fly;
 - through efficient use of airspace, the environmental impact of aviation on local communities is effectively managed and CO2 emissions are reduced; and
 - the aviation industry manages security risks effectively.
8. The Annex to this response provides more detail on our regulatory roles and statutory functions which impact on the success of any scheme proposed to meet or deliver the objective of the Airports NPS, if designated.

The CAA's role as a statutory consultee under planning law

9. The CAA is prescribed as a statutory consultee under planning law¹ and must be consulted on all proposed applications for Development Consent relating to an airport or which are likely to affect an airport or its current or future operation.
10. As a statutory consultee we will need to assure ourselves, the Planning Inspectorate and the Secretary of State that we see no impediments to HAL's proposed development proceeding insofar as they relate to our regulatory roles and statutory functions. We must be satisfied that there are no unacceptable safety, economic or airspace consequences arising from HAL's planning proposals that will prevent us giving our relevant regulatory approvals later on.
11. This will require HAL to engage with us on its proposals with sufficiently detailed and mature information so that we can provide meaningful advice and commentary and ultimately be satisfied that the 'no impediments' threshold has been met insofar as they relate to our regulatory roles and statutory functions.
12. We have highlighted to HAL the importance of our statutory consultee role and also raised this in our evidence to the Transport Select Committee on the Airports NPS in February 2018. We expect the engagement process to be a two-way process that requires effective and timely communication and information provision. We intend to publish further information clarifying our roles and responsibilities in both our regulatory capacity and as a statutory consultee, for maximum transparency.
13. In engaging with HAL as a statutory consultee we will:

¹ Infrastructure Planning (Applications: Prescribed Forms & Procedure) Regulations 2009.

- comment and provide advice to HAL on its planning proposals insofar as they relate to our relevant statutory duties, functions and associated policies;
- act within the remit of our relevant statutory duties and functions (advice and guidance will be bound by the limits of our duties and functions);and
- engage constructively with HAL to identify issues to ensure efficiency and effectiveness of pre-application engagement.

14. There is no conflict between our regulatory functions and statutory consultee roles. Both cover the same duties, roles and responsibilities. As a statutory consultee, we will be engaging with HAL on its planning proposals insofar as they relate to our relevant regulatory roles and responsibilities which will continue in parallel to the planning process.

APPENDIX A

The CAA's regulatory roles and statutory functions

1. This Annex sets out the CAA's regulatory roles and statutory functions with respect to the development of additional runway capacity in the south east of England.

Economic regulation

Price controls

2. We will regulate the costs of operating and expanding Heathrow airport in accordance with our primary duty under the Civil Aviation Act 2012 to further the interests of present and future passengers and cargo owners.
3. We apply economic regulation to HAL following a decision we made in 2014 that determined HAL has significant market power and would therefore need an economic licence to levy airport charges. At present, the regulatory regime works to control the costs that HAL can charge to its airline customers by imposing a price cap on the amount HAL can charge.
4. We set this price cap by taking into account the efficient operating and capital costs that HAL will incur in operating, maintaining and enhancing the airport and allowing a reasonable rate of return on its investment. We offset these costs with any commercial revenues HAL receives. This gives a required revenue yield that is divided between the forecast number of passengers in each year of the price control period, giving a maximum price per passenger. This enables HAL to make and finance efficient investments in the airport. The current price control expires on 31 December 2019 and we are currently developing the regulatory framework and approach to deal with the next control period, including how the price control should be set for the period when new capacity is under construction. Our latest consultation on this was published in December 2017 and closed in March 2018. Our next consultation will be published in April 2018.
5. In developing the economic regulatory framework for expansion at Heathrow airport, the CAA also has a role in determining the extent to which HAL can pass the costs of surface access schemes on to airlines, and ultimately to passengers and cargo owners, through airport charges. Our current policy sets out the criteria for allocating the appropriate level of efficient net surface access costs according to the interests of airport users and their beneficiaries. As required by our duties under the Civil Aviation Act 2012 we will assess surface access costs from the viewpoint of airport users.

6. The CAA's cost allocation principles, which have been consulted on a number of times since 2005, are designed to reflect the Government's long held principle that of 'user pays' as well as the statutory remit of the CAA.
7. We would expect such investments to meet the following criteria:
 - the extent to which surface access investment is in the long-term interests of passengers and cargo-owners (rather than third parties);
 - the investment delivers positive benefits to passengers and cargo-owners (rather than third parties);
 - the costs contributed by HAL (and thus passed on to airlines through airport charges) are proportionate to the benefits to passengers and cargo-owners.
 - costs have been efficiently incurred and the scope of the project minimised; and
 - surface access users (and third parties) would contribute to the cost where appropriate, for example, through the payment of fares.
8. Any planning obligations relating to surface access are also likely to be important additional considerations. We are developing our surface access policy as part of our process to develop a framework for economic regulation of expansion. Our April 2018 consultation will provide further detail on our present position with respect to our surface access policy.
9. We also note that our decisions to modify HAL's economic licence are subject to appeal to the Competition and Markets Authority by both HAL and airlines who are materially affected by our decisions.

Section 16 advice to the Secretary of State on airport-airline engagement

10. In October 2016, the Government announced that its preferred location for the development of new runway capacity in the south east of England was the Heathrow Northwest runway. Shortly afterwards, the Secretary of State requested, under section 16 of the Civil Aviation Act 1982, that the CAA review and advise him on how well HAL is engaging with, and responding to, the airline community on the appropriate scope, design and costing of the new runway and capacity at Heathrow Airport.²

² See

https://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airports/Files/171109Refresheds16CommissioningLettersignedassent.pdf
https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Commercial_industry/Airports/Economic_regulation/Price_control_files/Section%2016%20ToR%20on%20HAL%20engagement%20with%20

11. We provided the Secretary of State with an 'initial-health' check in February 2017, followed by further updates in May 2017 and September 2017, and our latest report in February 2018 which set out our provisional assessment of airport-airline engagement on new runway capacity. Our final April 2018 report will help inform the Secretary of State's decisions on seeking parliamentary approval for the designation of the Airports NPS. We are seeking stakeholder's views on future arrangements for airport-airline engagement ahead of our final report.
12. We note that while we are reporting to the Secretary of State under as part of the section 16 arrangements, our assessment of airport-airline engagement is undertaken through the lens of our primary duty under the Civil Aviation Act 2012 referred to above.

Safety regulation

13. The aerodrome and its surrounding vicinity including the Air Traffic Management Unit must demonstrate compliance with the agreed UK, European and International safety criteria. In this context, we note that certain regulations will be impacted by Brexit. We have published our view on the principles that should apply when considering the future of aviation regulation post-Brexit.³

Aerodrome infrastructure oversight

14. The CAA regulates some aspects of the safety of airport design against UK, European and international safety criteria. The final design, procedures and aerodrome safety cases will be subject to approval by CAA.
15. The CAA undertakes aviation safety regulation of HAL as part of its obligations under Commission Regulation (EU) No. 139/2014. As the UK Competent Authority, the CAA has the necessary powers and responsibilities for the certification and oversight of aerodromes, as well as personnel and organisations involved therein. The CAA delivers ongoing oversight of all runways, taxiways, aprons and infrastructure at Heathrow airport, and has a continuing obligation to ensure its safety management system continues to operate effectively, in accordance with the regulations.
16. The CAA assures the safety activities at Heathrow airport by reviewing and verifying compliance with regulation through performance based oversight.
17. HAL is required by regulation to seek prior approval from the CAA of impending changes affecting their infrastructure or management system. The CAA has developed a system for notification of such changes which triggers an internal

[airline%20community.pdf](#)

³ https://www.caa.co.uk/uploadedfiles/caa/content/news/speeches_files/gadspeech_andrewhaines_011216.pdf

review process. Whilst formal notification of changes as a result of expansion will not take place until the infrastructure is in place we will have continuing dialogue with HAL as its proposals develop.

Air Traffic Service oversight

18. The CAA regulates the safety of Air Traffic Service provision against UK, European and International safety criteria.
19. The CAA undertakes aviation safety regulation of Air Navigation Service Providers (ANSPs) as part of its obligations under Commission Regulation (EU) No. 1034/2011. At Heathrow airport the current ANSPs are NATS En-Route Limited (NERL) who provide approach functions and NATS Services Limited who provide Tower services at the airport itself. As the UK Competent Authority, the CAA has the necessary powers and responsibilities for the certification, designation and oversight of all aspects of the ANSPs' operations and organisation. ANSPs are required to comply with the requirements in Commission Regulation (EU) No. 1035/2011, and this regulation includes requirements for the ANSP to utilise Safety Management, Quality Management and Security Management systems all of which are subject to regular audit by the CAA.
20. The solution (people, procedures, equipment and facilities) enabling service provision at an expanded Heathrow airport will be the subject of an integrated suite of safety assurance (based on Safety Cases) which will be subject to approval by CAA. Whilst formal submission of the safety case will not take place until the physical infrastructure is in place, we will have a continuing dialogue with HAL as its proposals develop.

Airspace

Airspace change process

21. To operate aircraft from a new runway, the airspace design in the south east of England and beyond will require significant change. The CAA has two separate but related roles on airspace. Firstly, the CAA makes decisions on proposals to change airspace design. Secondly, we must develop a strategy and plan for the use of UK airspace for air navigation up to 2040, including for the modernisation of such airspace. This is a requirement of the Secretary of State's 2017 Directions to the CAA pursuant to section 66 of the Transport Act 2000. The CAA's plan will be reviewed during 2018 and will take into account the contents of the Airports NPS, if designated. Our airspace functions will be carried out in such a way as to give effect to our strategy and plan (and therefore any designated Airports NPS) subject to our statutory functions and duties.

22. To return to our decision-making role, the CAA requires the 'change sponsor' to follow our airspace change process. The CAA's new airspace change proposal (ACP) process came into force on 2nd January 2018 and the CAA's guidance document (CAP 1616)⁴ sets out the new process. The ACP process has seven stages including: design principles, development of options, consultation, submission of proposal, decision, implementation, and finally post-implementation review.
23. The CAA does not make a decision until stage five of the process but there are a number of procedural gateways at the preceding stages which the sponsor has to pass through in order to progress to the next stage.
24. We note that the ACP in relation to a new Northwest runway at Heathrow airport has been initiated and an initial consultation on design principles is being conducted. Airspace change will be an important part of HAL's pre and post Development Consent submission, however any proposed changes to airspace to accommodate a Northwest runway at Heathrow airport will not, it is anticipated, be submitted for a decision by the CAA until a number of years after the Secretary of State's Development Consent decision.
25. In addition to airspace change, changes to air traffic control (ATC) operational practices will also be required to accommodate new traffic. At present the CAA regulates only the safety of such practices, however the Secretary of State indicated in the UK Airspace Consultation Response document that the CAA will be given a function of deciding whether or not certain ATC operational practices may be implemented (after considering other factors such as noise impact, in addition to safety).

Air Quality

26. The CAA's role on air quality is secondary to that of the government and local authorities, who are empowered by statute to engage on air quality issues.
27. Where appropriate, the CAA gives consideration to air quality when making other regulatory decisions - particularly when establishing best practice for operators and when helping to influence new technology standards.
28. The CAA as a public authority, also has a duty to conserve and protect biodiversity under the Natural Environment and Rural Communities Act 2006 to conserve and protect biodiversity.

⁴ See <https://publicapps.caa.co.uk/modalapplication.aspx?appid=11&mode=detail&id=8127>

Security

29. The CAA monitors and oversees Heathrow's compliance with International, European and domestic security legislation. The CAA's monitoring and oversight will continue throughout construction and at the expanded airport for any areas where aviation security requirements apply.