

[REDACTED]

10 January 2019
Reference: F0004046

Dear [REDACTED]

Thank you for your request of 6 December 2018, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

'Our business and others are being affected by increasing interference of low flying aircraft in the lower stratum due to the CAA authorising a Display Area for Stow Maries Great War Aerodrome (SMGWA) over our properties, without prior consultation with, or consent of these landowners.

The Long Term Exemption the CAA have authorised allows this to occur daily within the Designated Display Area, only 5% of which is within the ownership and control of SMGWA.

We request a copy of all correspondence relating to this application (current and previous) and of documentation relating to the grant of the LTE Licence (current and previous) under the Freedom of Information Act within the statutory timeframe.'

Our response:

Background Information

The Long-Term Exemption (LTE) for the purpose of display practice or rehearsal at Stow Maries Great War Aerodrome (SMGWA) is issued on the basis that, for purposes of aviation legislation, airspace in the United Kingdom is effectively "controlled" by the state, rather than by any individual landowner; as such, all aircraft are free to fly over all of the terrain within the UK. For the safe and expeditious flow of aircraft, some of the airspace is controlled, and pilots will have to abide by specific rules and will require a clearance to enter such airspace and will be required to fly in compliance with any further clearances or instructions from an Air Traffic Control Unit while navigating in it. However, there are also other areas that lie in uncontrolled airspace, and within such airspace, pilots are free to navigate and manoeuvre at will, provided that they remain in compliance with the Standardised European Rules of the Air (SERA).

Civil Aviation Authority

Aviation House Gatwick Airport South Gatwick RH6 0YR. www.caa.co.uk

Email: foi.requests@caa.co.uk

The CAA do not require evidence that the aerodrome has consulted with neighbouring landowners prior to issuing a permission. Rather, our role as a regulator is to consider the safety aspects of any submission and, where necessary, to ensure suitable mitigation is in place for areas such as roads and public rights of way. It is the responsibility of the applicant to ensure that they have conducted an appropriate risk assessment which should take into account roads, paths and any occupied premises and, if required, liaised with local stakeholders.

Any objections should be directed to SMGWA, as the CAA's role as a regulator is to consider the safety aspects of any submission.

Information being disclosed

Having considered your request in line with the provisions of the Freedom of Information Act 2000 (FOIA), we are able to provide the information attached.

We have redacted personal information where disclosure of such personal information would be unfair. The individuals concerned would not have had an expectation that their personal data would be disclosed, and the CAA can identify no legitimate interest that would be served by disclosing this personal information. Disclosure would therefore be a breach of one of the data protection principles contained in Article 5 of the GDPR, specifically Article 5(1)(a), which states that personal data shall be 'processed lawfully, fairly and in a transparent manner in relation to the data subject ...' Section 40(2) of the FOIA provides an exception from the duty to disclose information that would contravene any of the data protection principles (a copy of this exemption can be found below).

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
Gatwick Airport South
Gatwick
RH6 0YR

caroline.chalk@caa.co.uk

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

Should you remain dissatisfied with the outcome you have a right under Section 50 of the FOIA 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 sincerely

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

Mark Stevens
External Response Manager

CAA INTERNAL REVIEW & 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.

Freedom of Information Act: Section 40

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if
 - (a) it constitutes personal data which does not fall within subsection (1), and
 - (b) the first, second or third condition below is satisfied.

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

(4A) The third condition is that—

- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or
- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

(5A) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—

(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—

- (i) would (apart from this Act) contravene any of the data protection principles, or
- (ii) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded;

(b) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene Article 21 of the GDPR (general processing: right to object to processing);

(c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in subsection (4A)(a);

(d) on a request under section 45(1)(a) of the Data Protection Act 2018 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

(6).....

(7) In this section—

“the data protection principles” means the principles set out in—

- (a) Article 5(1) of the GDPR, and
- (b) section 34(1) of the Data Protection Act 2018

“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the GDPR”, “personal data”, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4), (10), (11) and (14) of that Act).

(8) In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.