

CAA assessment of the criteria for call in by the Secretary of State of Birmingham Airport's April 2018 airspace change proposal

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Chapter 1

Background

Introduction

- 1.1 On 30 April 2018, Birmingham Airport Limited submitted an airspace change proposal to the CAA (“Birmingham Airport Airspace Change Proposal: Introduction of new Standard Instrument Departure Procedures from Runway 33”¹, ACP reference ACP-2016-15), proposing changes to the departure routes from Birmingham Airport. On 13 November 2018, the CAA received a request for the airspace change decision of this proposal to be called in by the Secretary of State² and, later that day, the Secretary of State asked the CAA to assess whether the call in criteria set out in the 2017 Secretary of State Directions to the CAA have been met. The Secretary of State’s request attached draft guidance to the CAA on making this assessment which the CAA was asked to take into account. No further updates to the airspace change proposal were submitted to the CAA before the deadline for call in requests of 20 November 2018 and so the CAA’s assessment will be made against the details of the proposal submitted on 30 April 2018 (hereafter called the “Birmingham Proposal”).
- 1.2 This report represents the CAA’s assessment of the call in criteria as they apply to the Birmingham Proposal, and will be provided to the Secretary of State to inform his decision whether he has a discretion to exercise to call-in the proposal for decision by himself rather than the CAA.
- 1.3 The remainder of this chapter outlines the relevant Directions and Guidance given to the CAA. Chapter 2 sets out the CAA’s assessment of each of the call in criteria and Chapter 3 gives the CAA’s overall assessment of whether any of the call-in criteria are met such that a discretion for the Secretary of State (SofS) to call in the Birmingham Proposal arises.

Relevant Directions and Guidance

¹ Available on the CAA website at <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Decisions/Birmingham-Airport-Runway-33-standard-instrument-departures/>.

² Available on the CAA website on the same webpage.

- 1.4 The Civil Aviation Authority (Air Navigation) Directions 2017, issued to CAA on 18 October 2017 contain the primary definition of the call in criteria and the exceptions which the CAA must consider in this assessment.

- (5) For the purposes of this direction, the “call in criteria” are that the proposed change—
- (a) is of strategic national importance,
 - (b) could have a significant impact (positive or negative) on the economic growth of the United Kingdom, or
 - (c) could both lead to a change in noise distribution resulting in a 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life.
- (6) This direction does not apply to a proposal which is—
- (a) submitted by, or on behalf of, the MoD,
 - (b) directly related to a planning decision which had already been determined by the Secretary of State,
 - (c) directly related to a planning decision made by another planning authority which involved detailed consideration of changes to flight paths in UK airspace, consequential on the proposed development, which the sponsor has taken into account when developing its proposal, or
 - (d) submitted to the CAA for approval before the coming into force of these Directions.

- 1.5 The Secretary of State’s Air Navigation Guidance 2017, providing guidance to the CAA on its environmental objectives when carrying out its air navigation functions and to the CAA and wider industry on airspace and noise management 2017, published in October 2017, states that.

6.7 In accordance with the call-in criteria as set out in the Air Navigation Directions 2017, the CAA must require that the sponsor assesses whether the anticipated noise impact of its proposals will meet the relevant call-in criterion and provide that assessment to the SofS to enable the expected noise impact to be checked and determined by the SofS.

- 1.6 In its letter to the CAA dated 13 November 2018³, DfT requested that the CAA assess whether the call in criteria in this case are met and that the CAA take into account attached draft statutory guidance on carrying out that assessment when doing so.
- 1.7 The guidance described above is hereafter referred to as “the Guidance” and is set out below:

³ Available on the CAA website at <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Decisions/Birmingham-Airport-Runway-33-standard-instrument-departures/>

Call-in criterion (a) – Strategic national importance

10. The proposal would be of strategic national importance if it supports or conflicts with the delivery of national policy to the extent that the approval or rejection of the proposal will impact the **overall** delivery of one or more of the following government policies only:

- I. **an Airports National Policy Statement (NPS)**, for example, if the CAA considers that a proposed airspace change could prevent the successful delivery of on-going or future airspace changes that could increase future capacity as agreed in that NPS;
- II. **maintaining UK national security**, for example, a proposal that the CAA has been advised by the Ministry of Defence or another government department might have a national security impact on the operations of a site of critical national infrastructure, such as a nuclear installation or prison;
- III. **the UK's Industrial Strategy as it relates to space ports**, but only where a proposal establishes the airspace needed for operations from the first space ports designed for sub-orbital use and vertical launchers, and which therefore sets the precedent for future design and airspace change decisions;
- IV. **airspace zones specifically linked to the UK policy on the safe use of drones in the UK**, but only in respect of the first proposal to establish the airspace needed for the use of drones commercially (i.e. excluding testing) and which therefore sets the precedent for future design and airspace change decisions.

11. The DfT will notify the CAA at the point it no longer needs to take one or more of the bullet points in paragraph 10 into account.

Call-in criterion (b) – Could have a significant impact (positive or negative) on the economic growth of the United Kingdom

12. A proposal would have such an impact if it were directly linked to a plan to increase capacity at an airport or airports by more than 10 million passengers a year.² This is the passenger threshold used for an airport to be classed as a Nationally Significant Infrastructure Project.

² This will only apply where the SofS has not already reviewed the change through a planning procedure, as per exception II(a)

Call-in criterion (c) – Could both lead to a change in noise distribution resulting in a 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life

13. To enable this criterion to be assessed, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes either (a) an assessment of whether the 54 dB LAeq 16hr test set out in criterion c is met, based on satisfactory noise modelling, or (b) where agreed with the CAA, other satisfactory evidence demonstrating that the anticipated change in noise impacts will not meet this criterion.
14. The Air Navigation Guidance 2017 (section 6.7) states that “the CAA must require that the sponsor assesses whether the anticipated noise impact of its proposals will meet the relevant call-in criterion and provide that assessment to the SofS to enable the expected noise impact to be checked and determined by the SofS.” This assessment must be made for all proposals submitted to the CAA for decision after 1 January 2018³, including those that are being considered under CAP 725 and against the Air Navigation Guidance 2014.
15. This criterion⁴ concerns proposals that have both “a change in noise distribution ...**and**...an identified adverse impact on health and quality of life”. For the purposes of this assessment, the CAA should consider whether any proposal leading to the specified change in noise distribution in criterion (c) will consequently have “an identified adverse impact on health and quality of life” and therefore will meet this criterion.

Exceptions

16. Direction 6(6) specifies the following exceptions from the call-in process:
- I. **a proposal which is submitted by, or on behalf of, the Ministry of Defence (MoD)**. This would include a proposal jointly submitted with a civilian sponsor;
 - II. **a proposal directly related to a planning decision:**
 - a. which has already been determined by the SofS; or
 - b. made by another planning authority which involved detailed consideration of changes to flight paths in UK airspace consequential on the proposed development, which the sponsor has taken into account when developing its proposal.
17. In the case of a proposal that is subject to an exception under paragraph 16 above, the CAA is requested to provide its views as to why the exception applies and no detailed assessment of the call in criteria against the proposal is required.

³ Direction 6(6)(d)

⁴ Direction 6(5)(c)

Chapter 2

CAA's assessment of the call-in criteria

- 2.1 In this chapter, the CAA sets out its assessment of the various call in criteria as they pertain to the Birmingham airspace change proposal.
- 2.2 It must first be ascertained whether the airspace change falls into any of the exception categories from 2017 Directions, Direction 6(6), since if it does then – irrespective of other considerations – no detailed assessment of the other call in criteria needs to be made. If the proposal does not appear to be an exception, then it must be assessed against the three call in criteria from 2017 Directions., Direction 6(5).

Exceptions

- 2.3 Direction 6(6) states the conditions under which a proposal is exempted from call in. The proposal is exempted if it is:
- Submitted by, or on behalf of, the MoD,
 - Directly related to a planning decision which had already been determined by the Secretary of State, or
 - Directly related to a planning decision made by another planning authority which involved detailed consideration of changes made to flight paths in UK airspace, consequential on the proposed development, which the sponsor has taken into account when developing its proposal.
- 2.4 **Submitted by, or on behalf of, the MoD:** the Birmingham Proposal was submitted by Birmingham Airport Ltd, and makes no mention of the proposed changes being made jointly with or on behalf of the MoD. Therefore, the CAA's assessment is that this exception is not met.
- 2.5 **Directly related to a planning decision already determined by SofS:** the CAA is not aware of any planning decision already determined by the SofS to which the Birmingham Proposal is directly related. Nor is there any mention of such in the Birmingham Proposal. Therefore, the CAA's assessment is that this exception is not met.
- 2.6 **Directly related to a relevant planning decision by another authority:** the CAA is not aware of any planning decision already determined by any other body to which the Birmingham Proposal is directly related in the manner specified. Nor is there any mention of such in the Birmingham Proposal. Therefore, the CAA's assessment is that this condition is not met.

2.7 From the analysis above, the Birmingham Proposal does not meet any of the conditions required to be an exception, and therefore it can be called in by the Secretary of State if it meets one or more of the criteria set out in the Directions 5(5).

2.8 The following sections will examine each of these criteria in turn.

Of strategic national importance

2.9 Direction 6(5)(a) states that an airspace change proposal shall meet one of the call in criteria if it is of strategic national importance.

2.10 The Guidance provided to the CAA states that a proposal would be of strategic national importance if it supports or conflicts with the delivery of national policy to the extent that the approval or rejection of the proposal will impact the overall delivery of one or more of the following government policies only:

- an Airports National Policy Statement (NPS)
- maintaining UK national security
- the UK's Industrial Strategy as it relates to space ports
- airspace zones specifically linked to the UK policy on the safe use of drones in the UK

2.11 **An Airports NPS:** The Government's only Airports NPS was formally designated by the Secretary of State on 26 June 2018. Paragraph 1.12 of the Airports NPS⁴ states, "The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England." There is no mention of airspace in the Airports NPS, and the only mention of Birmingham Airport is in paragraph 3.42 saying that it supports expansion at Gatwick Airport. Therefore, the CAA's assessment is that the approval or rejection of the proposal will not impact the overall delivery of this national policy and therefore this condition is not met.

2.12 **Maintaining UK national security:** the CAA has not been advised by the Ministry of Defence or any other government department that the Birmingham Proposal might have a national security impact on the operations of a site of critical national infrastructure. Nor is there any mention of such in the

⁴ 'Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England', June 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714106/airports-nps-new-runway-capacity-and-infrastructure-at-airports-in-the-south-east-of-england-web-version.pdf

Birmingham Proposal. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.

- 2.13 **Space ports:** the Birmingham Proposal makes no mention of the proposed changes being made in relation to space ports, nor does it appear to the CAA to be related to this. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.
- 2.14 **Airspace zones for safe use of drones:** the Birmingham Proposal makes no mention of the proposed changes being made in relation to use of drones, nor does it appear to the CAA to be related to this. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.
- 2.15 Since the CAA's assessment is that none of the above conditions have been met by the Birmingham Proposal, our assessment is that this criterion is not met.

A significant impact (positive or negative) on the economic growth of the United Kingdom

- 2.16 Direction 6(5)(b) states that an airspace change proposal shall meet one of the call in criteria if it could have a significant impact (positive or negative) on the economic growth of the UK.
- 2.17 The Guidance provided to the CAA states that a proposal would have such an impact if it were directly linked to a plan to increase capacity at an airport or airports by more than 10 million passengers a year.
- 2.18 The Birmingham Proposal does not mention that it is associated with any increase in passengers served by the airport. In its carbon assessment (Paragraph 20.3, Table 1), it indicates that it expects the same number of Air Transport Movements (ATMs) at the airport in 2016, 2018 and 2023 whether the Proposal is implemented or not. In 2017, Birmingham served 13.0 million passengers with 118.5 thousand ATMs, of which only around 10 thousand used the departure routes which are the subject of the proposal. Birmingham Airport Ltd's draft masterplan⁵ contains traffic forecasts (page 23) which suggest the airport will grow to 18.0 million passengers by 2033 (in the base case; in the high case, it is 24.2 million).
- 2.19 Therefore, it seems unlikely to the CAA that the Birmingham Proposal will be directly linked to an increase in capacity of more than 10 million passengers per annum. Therefore, the CAA's assessment is that this criterion is not met.

⁵ Available at <https://www.bhxmasterplan.co.uk/full-master-plan/>

A change in noise distribution and an identified adverse impact on health and quality of life

- 2.20 Direction 6(5)(c) states that an airspace change proposal shall meet one of the call in criteria if it could both lead to a change in noise distribution resulting in 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life.
- 2.21 The Guidance provided to the CAA states that to enable this criterion to be assessed, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes either (a) an assessment of whether the 54 dB LAeq 16hr test set out in criterion c is met, based on satisfactory noise modelling, or (b) where agreed with the CAA, other satisfactory evidence demonstrating that the anticipated change in noise impacts will not meet this criterion.
- 2.22 The Birmingham Proposal (Section 18) calculates the expected noise impact of the airspace change in terms of population subjected to various noise levels under three scenarios – for 2016 traffic, for forecast 2018 traffic and for forecast 2023 traffic (and therefore fulfils condition (a) of DfT's Guidance to CAA above). The results are summarised in the table below:

Scenario	Net change in population subjected to a noise level of at least 54 dB LAeq 16hr	Net change in households subjected to a noise level of at least 54 dB LAeq 16hr	Relevant paragraph in Birmingham Proposal
2016 traffic	+900	+500	18.4.1*
Forecast 2018 traffic	+800	+300	18.5.1
Forecast 2023 traffic	-300	0	18.6.1

Source: Birmingham Proposal

Note: * in Appendix 10 of the Birmingham Proposal, the results are tabulated and indicate a net increase in population of 300 and households of 200.

- 2.23 This analysis indicates that the number of people subjected to a noise level of at least 54 dB LAeq 16hr will be less than 1,000 for at least 5 years after implementation. Since this number is not an increase of at least 10,000, there is no requirement to assess whether the airspace change proposal has an identified adverse impact on health and quality of life. Therefore, the CAA's assessment is that this criterion is not met.

Chapter 3

CAA's overall assessment

- 3.1 The CAA has assessed the Birmingham Proposal against the call in criteria in the Directions, taking account of the DfT's Guidance, and found that it does not meet any of the exceptions in the 2017 Directions, but also does not meet any of the call in criteria. Therefore, the CAA's overall assessment is that in accordance with the terms of Directions and taking into account the Guidance, a discretion for the Secretary of State to call in the Birmingham Proposal for decision by himself rather than the CAA does not arise.
- 3.2 In accordance with the terms of the Directions, it is a decision for the Secretary of State whether he agrees with the CAA's assessment and conclusions, or whether he agrees with the CAA's conclusion but for different reasons or whether he reaches a different conclusion.