

DfT Consultations

UK Airspace Policy Consultation

Name of participant: Hilary Newport, CPRE Kent.

These are the recorded submissions for Session 1. Only sections to which responses have been recorded are listed below.

Chapter 4

Q1a. Please provide your views on the proposed call-in function for the Secretary of State in tier 1 airspace changes and the process which is proposed, including the criteria for the call-in and the details provided in the Draft Air Navigation Guidance

Your response:

CPRE Kent is the Kent Branch of the Campaign to Protect Rural England, an independent part of the national CPRE organisation. Throughout Kent we represent 2,330 individual members, 144 Town or Parish Councils and 37 local amenity groups and civic societies. CPRE exists to promote the beauty, tranquillity and diversity of rural England by encouraging the sustainable use of land and other natural resources in town and country.

We strongly agree that, as with important planning applications, the SoS should have call-in power. However the proposed criteria are too restrictive, and need to be more relevant to the real-life concerns of people affected.

It is suggested that a flight path change would only be decided by the SoS if '...it could 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 54dB LAeq 16hr as well as having and identified adverse impact on health and quality of life.'

There have been three major changes to flight paths at Gatwick over the past four years (the ADNID trial, the concentration of approach routes to the east of the airport, and the concentration of departure routes). These changes have caused thousands of complaints and received widespread coverage in local and national media, yet none of them would have fallen within the proposed criteria for call-in.

We consider it is inappropriate to use the 54 leq contour because it is an average metric which ignores the peak sound levels experienced. It also ignores the increased level of annoyance caused by new flight paths over areas which have not previously been overflowed. We are also concerned that it would be very hard to identify a specific impact on health linked to a specific route.

Q1b. Please provide your views on the proposal that tier 2 airspace changes should be subject to a suitable change process overseen by the Civil Aviation Authority, including the Draft Air Navigation Guidance (opens in a new tab/window) and any evidence on costs and benefits.

Your response:

We are concerned that Tier 2 changes, as well as those Tier 1 changes not called in by the SoS, would be decided by the CAA which, while claiming to be independent, is very much an agent of the aviation industry. Such decisions could have a profound effect on the lives and livelihoods of affected receptors. Local MPs and planning authorities would be incapable of influencing these decisions. ICCAN should be given the power to take final decisions on new flight paths.

Q1c. Please tell us your views on the proposal that tier 3 airspace changes should be subject to a suitable policy on transparency, engagement and consideration of mitigations as set out by the Civil Aviation Authority.

Your response:

We support the consultation's recommendation, as these are changes over which there is at present no control - for example significant shifts in the distribution of flights on particular routes.

However, there should be a trigger point at which review by ICCAN should be required: for example, a 20% traffic increase within two years on a particular route, or a rise of more than 5% of the movements at an

airport. Such a change could, for example, come about at Gatwick where one particular departure route (WIZAD) is used only in the event of emergencies. However if it were to be used more regularly it would adversely impact on the town of Horsham and such a case its use should be subject to independent scrutiny.

Q1d. Please tell us your views on the airspace change compensation proposals.

Your response:

We consider the proposals for compensation to be inadequate. The proposals for increased noise insulation would only apply very close to the airport and would provide no benefit to those who wished to open their windows or spend time out of doors. We do not support the suggestion that sponsors of air space change should be allowed to offer compensation voluntarily: this should be a compulsory requirement.

Changes in flight paths can negatively affect house prices, and deter potential purchasers, at distances of 10 or 15 miles from an airport. In the case of new built development (e.g. a motorway or other road) the Land Compensation Act provides for fair recompense. We strongly recommend that the Act should be amended to provide similar compensation for those affected by a new 'motorway in the sky' or by changes to routes. Compensation for a new motorway is paid by Highways England; compensation for new or changed flight paths should be paid by the airport concerned. That would affect air fares, but economic theory and natural justice suggest that those who benefit should compensate those who suffer noise pollution. Air fares are artificially low as the result of airlines paying no fuel duty or VAT, so it is appropriate that the aviation industry should pay for some of its impacts.

Chapter 5

Q2a. Please provide your views on the proposal to require options analysis in airspace change processes, as appropriate, including details provided in the Draft Air Navigation Guidance

Your response:

We are disappointed at the proposal to retain unchanged the guidance which states that noise should be given priority up to 4,000ft, while noise and climate change should be given equal priority between 4,000 and 7,000ft. We do of course recognise the importance of limiting climate change emissions, but we are aware that many of our members are severely disturbed by the noise of aircraft at heights of 4,000 to 7,000ft and even higher. This is particularly true in areas where ambient noise is low. We welcome the suggestion that consideration should be given to limiting the number of aircraft on any one route between 4,000 and 7,000ft but consider that this should be set at realistic limits rather than simply 'given consideration'.

We can not accept the proposed addition to the policy that the benefits of noise reduction should be shared between the aviation industry and communities with the addition of the clause 'in the interests of sustainable development'. The original policy wording was intended to ensure that as flight numbers increase, communities would suffer less noise. This amendment suggests that noise reduction is less important than the drive to expand air travel.

We support the suggested amendment of the policy of promoting concentrated flight paths ('Decisions on how aircraft noise is best distributed should be informed by local circumstances...') We recognise that satellite navigation is here to stay, but we know that many people suffering increased aviation disturbance would wish a return to the previous pattern of dispersed flight paths. Multiple PBN routes should ideally be used to create dispersal, on a schedule publicised well in advance so that people can organise their lives to avoid disturbance as far as possible. However, the Aviation Policy Framework (2013) requires that significant numbers of people are not newly affected by aircraft so this must mean not only using less noisy aircraft but also some restraint on the number of flights; this needs to be emphasised by the DfT.

We support the proposed changes to the metrics for noise. Use of the 57 Leq significantly underestimated the number of people affected by aircraft noise, which was confirmed by the new survey, SoNA, which found that over the past thirty years sensitivity to aircraft noise has increased, with the same percentage of people being highly annoyed at 54 Leq as at 57 Leq thirty years ago.

But the 54 Leq contour only measures the area within which a majority of the community (as measured at Heathrow) are seriously annoyed by aircraft noise. We welcome the additional measure of 51 Leq as the

'Lowest Observed Adverse Effect Level' for daytime noise; and 45 Leq for the night.

The consultation paper recognises that many people find that average noise does not reflect their experience of aircraft noise. We therefore welcome the decision to introduce additional contours based on the number of aircraft: N65 in daytime and N60 at night, but these contours will still not adequately show the extent of the disturbance caused by aircraft noise, and further refinement is required.

As the High Tribunal Court recognised, people were actually annoyed by a change of noise even if acoustic evidence may suggest that people would not be disturbed (*Goodman & Ors v Transport for London* [2016] UKUT 126 (LC) at www.bailii.org).

Although we welcome the improved metrics, all of them fail to take into account ambient noise, and in doing so so fail to recognise that the same level of aircraft noise causes far greater disturbance and annoyance in a quiet rural area than in a busy city centre. Indeed Gatwick is surrounded on three sides by Areas of Outstanding Natural Beauty where peace and tranquillity are even more highly valued and the intrusion of aircraft noise even more resented.

The fact that a high proportion of the public interviewed for the SoNA survey lived near Heathrow means that the survey result may underestimate the impact at Gatwick. We understand that the reason the SoNA survey did not include ambient noise was the difficulty of obtaining appropriate figures for the levels of ambient noise at the locations where the interviews took place. That does not appear an insuperable problem, and we hope that further work can be done on this issue.

We note that a further analysis of the SoNA survey relating to night time disturbance is to be published soon, and its results should be included in revising the proposals.

Q2b. Please provide your views on the proposal for assessing the impacts of noise, including on health and quality of life. Please provide any comments on the proposed metrics and process, including details provided in the Draft Air Navigation Guidance

Your response:

We support a more formal options analysis to aid decision making on new flight paths, or on dispersal versus respite or versus concentration. Indeed not to provide such an analysis might well open any decision to judicial review. But there are two dangers: the first is that the publication of rejected options may cause a certain amount of blight. A house purchaser choosing between two otherwise desirable properties would tend to avoid the one that had a potential flight path overhead, even if that option had been rejected. The second, and more important, is that the choice of options would tend to set community against community. Any consultation on options should make it clear that proposals are based clear objective facts and that it is not a public opinion poll based on the number of votes.

Chapter 6

Q3a. Please provide your views on the Independent Commission on Civil Aviation Noise's (ICCAN's) proposed functions.

Your response:

(Our comments here are equally relevant to Question 3b and are therefore duplicated there.)

We can only support the establishment of ICCAN if it has the power to reduce noise. It should act as an Ombudsman. Many people who have complained about aircraft noise have found the system of dealing with their complaints is unsatisfactory, with no clear resolution of the responsibilities of the DfT, CAA, NATs and the offending airline. As a single point for complaints, an aircraft noise ombudsman with power to order improvement or compensation would be much more effective.

We suggest that ICCAN should:

- do more than simply 'advise' on changes in air space. If that advice was not accepted, ICCAN would soon become distrusted.
- promulgate best practice (although this role could equally well be fulfilled by the CAA). Providing information to the public on noise would be of no value. People who hear noise understand it perfectly well, and know that they don't like it, as shown by the Goodman judgement referred to in our answer to Question

2a.

- commissioning research would be welcome if given a sufficient budget but merely taking over part of the CAA budget would be of little benefit.
- undertake monitoring and quality assurance in order to increase trust by local communities. This would only work if ICCAN could demonstrate its independence by taking action to negate plans put forward by airports; it needs to be given the power to do so.

The lack of trust between Gatwick Airport and local communities has grown over many years. The list of instances where the public feel they have been misled is endless, so we doubt if the currently proposed role for ICCAN could compel Gatwick to behave in a more responsible way.

Making ICCAN a subsidiary of the CAA would remove confidence in its independence, An alternative would be a body like the Environment Agency, which can make binding decisions and has powers to take offenders to court, and thus be independent and have some judicial overview.

Q3b. Please provide your views on the analysis and options for the structure and governance of ICCAN given in Chapter 6, and the lead option that the Government has set out to ensure ICCAN's credibility.**Your response:**

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Chapter 7

Q4a. Please provide your views on the proposal that the competent authority to assure application of the balanced approach (image opens in new tab/window) to the adoption of operating restrictions at airports in England should be as set out in Chapter 7 on Ongoing Noise Management and further information at Annex F**Your response:**

The suggestion that controls on noise might be imposed by local councils as planning conditions might work where a planning permission is involved. However it may not be applicable where a Development Control Order is involved, and we are aware of no significant planning application at Gatwick.

However there would be significant difficulties with the proposed system. For example, at Gatwick, Crawley Borough Council declined to impose conditions despite strong proposals for them. Indeed there are legal restrictions on the use of planning conditions: paragraph 206 of the NPPF states "Planning conditions should only be imposed where they are: ... relevant to the development to be permitted ..."

If controls on noise and night flights were to be passed to local councils (not in relation to planning permissions) they should be implemented jointly by all the County/District/Borough councils around the airport, and this includes those outside the County boundaries. Crawley is the planning authority for Gatwick but the other five councils which about the airport suffer most of the noise, and those further afield are also adversely affected.

Q4b. Please provide your views on the proposal that responsibility for noise controls (other than noise-related operating restrictions) at the designated airports should be as set out in Chapter 7 on Ongoing Noise Management.

Your response:

We strongly oppose a policy of transferring some noise controls to the airports, including control over the NPRs and night flights. It would be wrong in principle to put such controls into the hands of a commercial business, which will always put profit first.

The consultation also hints that the Gatwick Noise Management Board (NMB) might be involved in setting controls on noise, eg noise limits or night flight quotas. So far that body has only dealt with arrivals and it has yet to be seen how effective it is in forcing the airport to take action which could be against its commercial interest. The requirement for a 75% majority means that it would be unlikely to take any action which was opposed by the airport and the airlines. If the NMB were to take on wider legal responsibilities, it would need a revised constitution to ensure that it represented all communities around the airport, including those in Kent.

Q4c. Please provide your views on the proposal that designated airports should publish details of aircraft tracks and performance. Please include any comments on the kind of information to be published and any evidence on the costs or benefits.

Your response:

The procedure for submitting complaints through the Casper system is unnecessarily complex, and appears designed to discourage complaints. We strongly oppose the suggestion that airports should be given 'ownership' of NPRs. These limits on flight paths have been in existence for fifty years. People have bought their houses and based their lives on the fact that the NPRs are fixed. Moving them would create great injustice and such decisions must not be solely in the power of a commercial business.

Q4d. Please provide your views on whether industry is sufficiently incentivised to adopt current best practice in noise management, taking into account Chapter 7 on Ongoing Noise Management, and the role of the Independent Commission on Civil Aviation Noise in driving up standards in noise management across the aviation sector.

Your response:

We see no effective incentive for the aviation industry to reduce noise. ICCAN will be well-intentioned but will lack power.

We consider it would be a retrograde step for the Department hand over responsibility to commercial airports, which have their own priorities for rmaximising profits. We have observed that the DfT takes seriously its responsibility to protect the public, and Ministers are democratically responsible.

We consider that the Department for Transport should not abrogate its responsibilities to the public, but should produce clear, unambiguous guidance covering all the issues which is enforceable by independent regulation.

Draft Guidance

Q5. Comments on Chapter 1: Air Navigation Guidance to the CAA on the Government's environmental objectives

Your response:

The objectives should clearly include the improvement of the environment and the reduction of noise. The word 'mitigation' should be deleted. All our comments on the main consultation should be taken as applying also to the Guidance.
