

Area Conservation Campaign

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RESPONSE TO

The CAA Consultation on

Draft Airspace Design Guidance

CAP 1520

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Who we are

1. GACC is the main environmental organisation concerned with Gatwick, and the only voluntary group that covers the whole area around the airport. Founded in 1968, we have as members many hundreds of individuals, over 50 District and Parish Councils, and over 40 community groups. These groups vary from three county branches of the CPRE, each with over 2,000 members, through over a dozen local aviation protest groups which have sprung up in the past four years in opposition to new flight paths, to many village amenity societies for whom aircraft noise is only one of their concerns. All our members pay us an annual subscription, demonstrating positive support.
2. We have shown this response in draft to all our members, and their comments have been taken on board.
3. Our membership covers an area about 20 miles radius around Gatwick, from Guildford to Crowborough, from Tonbridge to Petworth. Therefore we have been in pole position to observe the impact of the Gatwick flight path changes

introduced in the past five years - in many cases in advance of changes in other parts of the UK.

4. These changes have produced an unprecedented level of anger and protest. It is a paradox that, although aircraft are less noisy, never before in our 50-year experience has there been so much protest over such a wide area. In part that has been the result of the unsatisfactory way in which the changes have been introduced, and we welcome this CAA consultation as a belated attempt to rectify the situation.
5. Two general changes have caused particular protest. First, the narrowing of the swathe of arrival routes which was at first denied. The anger this created resulted in the Gatwick Arrivals Review and the formation of the Gatwick Noise Management Board. The second was the changes in all departure routes from the previous beacon navigation (which resulted in fairly random distribution) to the PBN or PRNAV system of satellite navigation (which resulted in concentrated flight paths and great public distress). This was introduced after a trial confined to 2% of flights, and after very limited consultation.¹ Gatwick Airport promised to revert to traditional navigation if the new routes proved unsatisfactory: a promise which they have, not surprisingly, broken.
6. Because GACC covers the whole area we have a firm policy not to get involved in local campaigns designed to move flight paths from A to B. We have left that to local protest groups, and fourteen new groups have sprung up since 2013, all strong and determined.² But we have been intently interested in the overall policy. We have taken a leading part in persuading the Government to propose two important changes; to amend the policy of concentrating the noise on the fewest number of people to a policy of dispersal or respite where local circumstances make it appropriate; and to propose new metrics for measuring aircraft noise. We are glad that the consultation includes references to the possibility of multiple routes (eg Appendix B paragraph B45), and to the use of new metrics such as the 51 leq contour (paragraph B52). Although it is worth noting that many of the areas covered by the protest groups lie outside the 51 leq contours.

Consultation overload

7. We are suffering from consultation overload. So far this year we have had three major consultations: the first on night flights to which we sent in a tough but intelligent response; the second on the Airports National Policy Statement to which we replied giving all the reasons (which fortunately the Government agrees with) why a second runway at Gatwick would be a bad idea; and the third on Airspace to which we submitted a detailed and constructive response.³ On top of that the Transport Select Committee has asked for our views on the Airports Statement, and on Airspace, only to find themselves obliterated by the dissolution of Parliament.
8. As if that was not enough, here comes the CAA asking for our views with a 234-page document littered with warnings (14 in total) that it will cease to be valid if the Government makes changes to their airspace policy. In other words based on an arrogant assumption that all the responses to the DFT Airspace consultation will be ignored. And based on the arrogant assumption that the

views of the Transport Committee, when resurrected, will be disregarded. In some places this arrogance is plain to see: for instance, in paragraph 50 it is assumed that ICCAN will be set up exactly as the DfT proposed; and in paragraph 80 it is stated that the Government is transferring to airports responsibility for NPRs when we were asked whether it should do.

The seven stages

9. The main core of the Airspace Design Guidance is the seven stages through which any change in a flight path must pass. Seven is an ancient magic number: the world was created in seven days, there are seven days of the week, seven colours of the rainbow, seven notes on a musical scale, seven seas and seven continents. Shakespeare described the seven ages of man, there are seven deadly sins, and Snow White had seven dwarves. So if a new flight path passes all seven stages it must be consummate perfection! The officials at the CAA can sleep soundly knowing that they have carried out the seven-stage procedure punctiliously. The fact that thousands of innocent citizens have had their lives ruined is hard luck.
10. Unfortunately the seven stages proposed by the CAA are fatally flawed. At every stage the final decision is taken by the CAA.⁴ So the seven stages are in essence merely a description of the decision-making process by the CAA. There is no appeal to any independent authority. Although the new Independent Commission on Civil Aviation Noise is to be consulted it will have no power to over-rule the CAA. Since it is to be housed within the CAA, financed by the CAA and staffed by CAA officials it is hardly likely to give much confidence to the public. No surprise that ICCAN has been nick-named 'I CAN'T'.
11. In our response to the DfT Airspace consultation we said: *'The CAA is described as independent but unfortunately that is not how it is perceived by the public. Despite efforts to give it an environmental role, it is still perceived by many of those aggrieved by new flight paths as mainly concerned to seek the advancement of airlines and airports. That remains so despite the appointment of a chair and a number of Board members from outside the aviation industry. The CAA's priorities are safety, consumers and the promotion of aviation. The CAA website says little about protecting the public from the adverse impacts of aviation. The CAA decision making process is not transparent. Although there is much talk about balancing various factors it is not clear who decides what balance is appropriate. Giving the CAA power to take decisions on all new flight paths not called-in [by the Secretary of State] would mean it being perceived as dictatorial.'*
12. We fully accept that the CAA is doing its best to be a benevolent dictator, and that this consultation is an attempt to make all its procedures more transparent and more fair. But sadly that is not how it is seen by the aggrieved public. It is the reason why we have told the DfT that ICCAN must be genuinely independent and have much greater powers.⁵

The seven stages of public agony

13. This consultation is top-down. It is written by people up-top, laying down the procedure. So it may be helpful to provide an alternate seven stages, written from the bottom up, as seen by an ordinary member of the public affected by a new flight path. And to draw some constructive conclusions from that.

Stage 1. Astonishment.

‘What are all these planes suddenly flying over our house? We’ve never had it like this before. OK yes, the occasional one once or twice an hour but these are absolutely nose-to-tail! Why haven’t we been told? Is it just a trial or is it going to be permanent?’

Stage 2. Anxiety.

‘I’m not sure we can live with this. We can’t go out-of-doors, can’t open the windows, we feel trapped in a hermetically sealed prison. Perhaps we should sell our house, move to somewhere quiet? But that means our children having to go to a new school and us leaving all our friends behind. And anyway this new flight path has knocked thousands of pounds off the value of our house, so we would have to make do with somewhere smaller.⁶ Trapped, with no escape! It’s all getting on my nerves. No wonder it causes heart attacks and strokes.’

Stage 3. Anger

‘Why weren’t we told? Meeting in the town hall - never heard about it. Parish Council objected - of course no one takes any notice of them. All this misery just for more and more cheap holidays, stag and hen nights. And I hear that airlines don’t pay any fuel tax or any VAT. Why should those bastards get all the benefit and we don’t get a penny in compensation for having our lives ruined?’

Stage 4. Determination

‘We hear there’s a local protest group started, and hundreds have already joined. So will we. We’ve got to fight this injustice. Worth subscribing generously if only we could get this flight path moved.’

Stage 5. Action

Protest group employs noise experts. Considers judicial review but usually finds it too costly. And each protest group encourages its members to write to the airport, or to NATS, or to the CAA, or to the DfT, or to local MPs, or to all of them. Thousands of emails are written, many addressed to the chief executives.

Judicial review is sometimes successful. The instigation of judicial review into changes in arrival routes by Martin Barraud on behalf of Gatwick Obviously Not, at a cost of around £100,000, was instrumental in the setting up of the Gatwick Arrivals Review and a dispersal of arrival paths. It has also played an important part in the DfT proposal to create Tier 2, a new category of flight path changes where NATS have altered their vectoring decisions.

Stage 6. Fury

The CAA confirms the route. The thousands of emails are ignored. Experts are over-ruled.⁷ The public is told that the route has gone through all seven stages, so it's now permanent. Hard luck! No compensation.

Distrust of the system is increased by the fact that responses are collated and reviewed by the flight path change sponsor ie the airport or NATS (consultation document paragraph 137) - equivalent to giving a criminal the chance to review the prosecution case! In several recent cases at Gatwick thousands of environmental responses or objections have been disregarded on the grounds that the 'objective' of the flight path changes was not environmental, and therefore environmental considerations are irrelevant (and this unsatisfactory interpretation of the rules is confirmed in the consultation document paragraphs B21 and B22). In a recent case 17,000 objections were consigned to the waste bin because most of them came from outside the 57 leq contour, a ridiculous excuse when the Government is proposing to reduce the standard metric to 51 leq, and when the 57 leq measure takes no account of ambient noise.

Stage 7. Despair

Gloom and resignation but with an enduring hate and distrust of the airport and all the bodies that are supposed to regulate the environmental impact of aviation.

Consultation = farce = fraud

14. The seven stages set out above are obviously over-simplified, and will vary from instance to instance, but many of our members have written in to say that they exactly reflect their own experience. Some clear conclusions can be drawn particularly in relation to consultation and compensation.
15. Consultation works when it throws up real technical problems, but to ask the public for their views with every intention of ignoring them is a farce. Or worse - fraud. It is axiomatic that all those who will be seriously affected will respond saying they don't like the proposal. At the first

theoretical stage there may be hundreds of such responses. After the new flight path is introduced, so that people actually experience aircraft overhead, the PIR will receive thousands of complaints, all in effect saying the same thing: that the new flight path should be moved or scrapped.

16. When the airport and NATS and the CAA know full well that they are going to ignore all such submissions they are being dishonest in asking people for their views. In paragraph C42 it is suggested that, when a flight path is confirmed without change: *“if there has been a groundswell of opinion ... face-to-face engagement may be necessary to clearly and simply contextualise the rationale for stakeholders.”* That might be risky: when faced with their lives being ruined, some stakeholders may decide to defenestrate the bearers of the contextualised rationale.

17. Some specific points:

- Information must be sent to all those likely to be affected before any flight path is moved. Consultation with so-called ‘stakeholders’ or ‘representative bodies’, as described in paragraph 15 of the consultation, is not sufficient. The only efficient way is by post to every person on the electoral roll in the relevant postcode areas.⁸
- Communications must be in Plain English.⁹ We welcome the recognition of this in paragraph 129. We recommend that the CAA should employ a journalist to check the wording of all public communications.
- Good maps should be provided showing towns and villages. Some of the maps produced by GAL and by NATS in recent years have been appallingly difficult to understand. We welcome the assurance on this point in paragraph B57.
- We welcome the emphasis on transparency but the proposed requirement to publish all responses on the internet seems impractical even when limited to one per person: in recent cases around Gatwick there have been several thousand objectors.
- More emphasis should be given to the legacy issue - the need to give priority to maintaining existing flight paths and, whenever possible, avoiding putting new routes over peaceful areas.

Conflicting priorities

18. The CAA is under a duty, imposed by the Transport Act 2000, Section 70 (2) (a) to secure the most efficient use of airspace; and under a duty imposed by Section 70 (2) (b) to satisfy the requirements of the airlines.¹⁰ Only when we get to Section 70 (2) (d) is the CAA required to ‘take account of’ the environmental guidance given to it by the Department for Transport.¹¹ How the CAA resolve these conflicting priorities is left up to them.

19. Where, as so often, there is a choice between two or more routes each of which would adversely affect thousands of residents, the CAA will 'take account of the environmental guidance', and will pick the route which affects marginally fewer people. Tick that box. But inevitably the route they do choose will mean that thousands of innocent people suffer.

Compensation

20. The key issue is compensation. All the proposals in this consultation, all the elaborate seven stage process, all the environmental guidance are of no value if one group of residents finish up with their lives ruined, their houses devalued and a deep sense of injustice.
21. In our response to the DfT consultation on Airspace we said: *'Many of our members who are affected by new flight paths dislike us discussing compensation because it sounds like accepting defeat: they want their previous peace and quiet restored. But when flight path changes become irrevocable, compensation is essential.....'*
22. *In the case of a new motorway or any new road, a new airport runway or taxiway or terminal, the Land Compensation Act provides full compensation for any loss of property value plus 10%. That is applicable at any distance from the new development, and is not linked to the installation of double glazing, nor to the sale of the property.*
23. *The Act should be amended to provide the same compensation for those affected by a 'new motorway in the sky'. By this we mean any new departure or arrival route operated by PBN. Compensation for a new motorway is paid by the Highways Agency: compensation for new flight paths would be paid by the airport concerned. That would of course be reflected in air fares. That is equitable: economic theory says that those who benefit should compensate those who suffer. So does natural justice. Air fares are already artificially low as a result of airlines paying no fuel tax and no VAT.'*
24. We suggested that the Act should be amended but it would probably take several years before the necessary legislation could be passed. The CAA itself does, however, already have the power to ensure full compensation. **In future the CAA should make approval of any new flight path conditional upon the sponsor (that is, either the airport or NATS) agreeing to pay full compensation on the basis of the Land Compensation Act.**
25. The CAA plays an active role in helping air passengers claim compensation for delayed flights or lost baggage. Why not play an active role in

securing compensation for distressed residents? In economic theory the loss in value of a house is the best way of putting a money value on the unpleasantness of having a new flight path overhead (or nearly overhead). It puts a capital value on how much less potential purchasers are prepared to pay compared to a similar house not under a flight path.

26. In discussions with the DfT and others several objections have been raised to which we give our answers below.

- a. Experience shows that the Land Compensation Act has worked well in the case of new roads but has not worked well with airport projects. That is true. In the case of airport expansions, such as the building of T4 at Heathrow or the second runway at Manchester, airport lawyers have argued that the increased number of jobs at the airport increases the demand for houses, so the fall in value is small. But, in most cases, that argument would not apply to a change in flight paths.
- b. Calculating the claims for each house is complicated and expensive, involving surveyors and lawyers. That is also true. A particularly wicked example has been at Stansted where the completion of a runway/taxiway extension was delayed for many years, delaying payment of compensation. And when the work was eventually completed the airport lawyers argued that the compensation claims were out of time! ¹²
- c. **We suggest that it should be solved by giving ICCAN the role of assessing the compensation due to each house, or to each house in a particular area.** That would we believe be widely welcomed, as it cut the cost of applying for compensation and ensure fair treatment for all. It would give ICCAN the role and power that it is at present lacking.
- d. Paying compensation for the adverse impact of new flight paths would be prohibitively expensive, particularly around Heathrow in view of the large number of houses. Or around Gatwick because of the number of high-value houses in areas of low ambient noise. That is a boomerang argument: it just shows the adverse impact of a new flight path. Heathrow and Gatwick airports can well afford to pay: neither have paid any corporation tax for many years.
- e. What about multiple routes? In some cases where new flight paths are proposed, it may be decided to provide respite by having two or more alternate routes. But the same principle would apply: the fall in value of each house would be less, so the compensation would be less. But it would still reimburse people for the amount of nuisance

that they suffer. This would make it easier to gain public acceptance of multiple routes.

Conclusion

27. **This consultation paper addresses, but does not solve, the issue of securing public acceptance of flight path changes. The solution is in the hands of the CAA.**
28. **In future the CAA should make approval of any new flight path conditional upon the sponsor agreeing to pay full compensation, as assessed by ICCAN, on the basis of the Land Compensation Act.**
29. That would be in accord with natural justice; and it would go a long way towards securing public acceptance. There would still be some issues to sort out: the issue of retrospective compensation for new routes introduced in recent years; and whether the compensation payments would be repayable if a flight path was subsequently moved again. We would be glad to discuss these issues with CAA officials.

¹ That meant that almost all responses to departure route changes have had to be lodged under the Post Implementation Review process, and thus miss out on much of the seven-stage system described in the consultation document.

² See GACC Guide to Gatwick Community Groups <http://www.gacc.org.uk/flight-paths.php>

³ See <http://www.gacc.org.uk/flight-paths.php>

⁴ At the end of Stage three the decision is to be taken by the change sponsor – hardly independent!

⁵ See GACC response to the Airspace consultation <http://www.gacc.org.uk/flight-paths.php> paragraphs 33-38.

⁶ A new study by Plentific.com (May 2017) has shown that, after proximity to a noisy pub, airports are a close second on the list of noise pollutants that would affect a homebuyer's decision to purchase a property, with 91% saying they would be influenced and over half (54%) saying noise levels from an airport would put them off completely. Airport flight paths also proved to be a deal breaker when it comes to buying a home, with 45% of homebuyers saying the noise levels would put them off completely. 30% of homebuyers said they would reconsider buying, while 15% said that they would be willing to offer a lower price for an affected property.

⁷ This is not always true: research by To70 helped the protest group Plane Wrong to secure a change in departure Route 4.

⁸ With separate notification of local businesses.

⁹ The information produced by Gatwick Airport on the 2013 ADNID trial was unintelligible.

¹⁰ http://www.legislation.gov.uk/ukpga/2000/38/pdfs/ukpga_20000038_en.pdf

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269527/air-navigation-guidance.pdf

¹² <http://stopstanstedexpansion.com/compensation.html>