

PLANE JUSTICE
Response to
the Department for Transport
UK Design & Use of Airspace Consultation 2017

Introduction

Plane Justice was formed in response to a PBN airspace change made to Gatwick departure Route 4 in May 2016, which saw the route moved and concentrated over new communities without due consultation. Its current aim is to support newly overflown communities in parts of Newdigate, Capel, Leigh, Norwood Hill, Sidlow, Salfords, Outwood and Horley achieve redress from what we consider was a deeply flawed decision process.

While there are some proposals in this consultation to be welcomed, overall we see the outcome of the review as expressed in this consultation as a wasted opportunity.

The last ten to fifteen years have been spent attempting to make self-regulation work. But this has failed to produce any sense of balance of the competing interests of industry and communities that would be recognised by those impacted by aircraft noise; And this sense of imbalance with the overriding interests of the aviation industry has reached epidemic proportions with the advent of PBN.

The proposals put forward in this consultation are largely unenforceable by the local decision making process suggested, nor do we think the newly proposed overseeing body (ICCAN) will fare any better without the power to see that its advice and decisions are followed through; Meanwhile the CAA is perceived by communities as too much a creature of the industry, and we see little in the current proposals which will change this.

We believe the answer lies in government laying out a firm set of unambiguous principles for airspace usage while at the same time redefining the duties of the CAA - with the aim of creating some genuine responsibility for containing and reducing aviation noise and holding the ring between interests of the aviation industry and those impacted thereby.

We have offered below some alternative approaches to correct the current regulatory deficit that exists, both in the current system and in that proposed by the Government in the consultation.

24 May 2017



Q. 1 Changes to Airspace

Please provide your views on:

a. 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changes and the process which is proposed, including the criteria for the call-in and the details provided in the draft guidance.

b. the proposal that tier 2 airspace changes [that is permanent changes to vectoring] should be subject to a suitable change process overseen by the CAA, including the draft guidance and any evidence on costs and benefits.

c. 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.

A. The one aspect of this section of the consultation that we can unreservedly welcome is the recognition that changes to vectoring practices can be as damaging to communities as changes to flight paths - and we would argue that tier 3 changes can be likewise. We see a large 'loophole' in the treatment of tier 3 changes, which may escape even the safeguards currently proposed for tier 1 and 2 changes. We propose subsuming the tier 1 to 3 approach into a new set of principles which we contend better balance the various competing interests at work in any airspace change process – see paragraph F below in this section.

B. That said, we appreciate the need for a back-stop for the SofS in certain circumstances, but we have concerns with the second and third of these in particular. The second provides for call-in where:-

The proposal could have a significant impact (positive or negative) on UK economic growth;

We are concerned that this could be interpreted, if so minded by the SofS, to call in an airspace change which of itself would not have a significant impact on economic growth, but could be argued to have such an effect if taken together with other similar airspace change proposals that have been made or may be made in future. Indeed as written, the call-in of any ACP could be justified on the above basis, and we find it impossible to view the prospect of this particular call-in as likely to be motivated by the community-protection side of the balancing process.

Accordingly we would like to see this call-in criterion reworded to:-

*The proposal, **taken on its own**, could have a significant impact (positive or negative) on UK economic growth;*

C. That brings us to the third criterion as follows:

“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 54 dB LAeq 16hr11 as well as having an identified adverse impact on health and quality of life.”

This only serves to underline for us a “blind spot” that policy makers in our experience seem to have in this policy area, namely that neither the DfT nor the CAA appear to see any special significance attaching to people who are newly overflowed: There are only ‘populations’, to be calculated and weighed in the balance and there are no special or additional considerations attaching to those who are newly overflowed.

We are dismayed the DfT continues to appear to have this blind spot, given what has ensued in the communities where PBN has been trialled since 2013. And there are even findings in the 2014 Noise Survey attached to the consultation, in particular those related to ‘non-acoustic factors’, which speak to the greater impact of noise on the newly-overflowed (though we would be the first to urge that far more research needs to be carried out into this area by policymakers).

So returning to the suggested criterion, if by moving a flight path 10,000 people in one community ceased to be overflowed, and 10,000 people in a different community became newly overflowed, then there would be no net increase and no call-in possible. (And incidentally, this was indeed precisely the situation that occurred in relation to Gatwick departure route 4 in 2015/16, according to data produced by the airport, though the actual figures were 7,000 and 7,200 respectively).

But the social and economic impacts for those two communities would be huge and diametrically opposed:-

- The first community would be presented with a huge windfall. They would have bought their home with aircraft flying over it, and almost certainly paid less for it as a result. They would now be able to sell their home at a higher market value because it is no longer overflowed. Yet at the same time they were aware of the noise when they moved there and ‘bought into’ that situation. Unless there were to be a *step-change increase in aircraft noise*, in our view the first community would have little justification upon which to complain - though this is not to say that every practical step should not be taken to mitigate noise for them, where this does not conflict with the other principles we have proposed in paragraph F below.
- For the second community however there is a ‘triple whammy’: They bought their home at ‘full market value’ because it was not overflowed, and now find its value depressed by up to a five- or six-figure sum depending on location by dint of overflight. And they now have to live with the consequences that aircraft noise brings. For such people, the impact of noise stress is not only

physical but psychological and exacerbated by the 'non-acoustic factors' identified in the 2014 Noise Survey. And these physical and psychological impacts are likely to be intensified further where the second community live in an area of low ambient noise.

- D. Our concerns are further exacerbated by the fear that much airspace management policy may be and continue to be driven by aggressive projections of passenger and aircraft growth which (while sending a message of business growth likely to be warmly received by government), have not been subjected to sufficiently rigorous independent evaluation and scrutiny; And that these possibly optimistic growth projections may be used to drive movements of aircraft routes from historical geographical positions, which are not justified in reality by the actual levels of growth that may ensue. These concerns are reflected in our proposals in F(i) to (iii) below.
- E. We also consider it an indictment on the government and the aviation regulator that since 2013 to the present, communities have been physically subjected to a set of ill-thought-out policies (as the current consultation acknowledges) coupled with an insufficiently developed PBN design technology which have damaged communities. Until this point, airspace arrangements had been largely settled for at least 30 years and communities could base life decisions on where to live with pre-knowledge of where aircraft were flying and where they were not. Since 2013 communities have been effectively used as 'guinea pigs' for the trialling of PBN with little or no proper consultation, and we can see that this situation is set to continue unless or until new policies are put in place which are not those described in this consultation.
- F. We propose there should be a set of objective criteria as follows which would apply to all tier 1, 2 or 3 airspace changes:-
- (i) Growth and changes in airspace usage should only be based on projections of growth in aircraft movements which have been approved by rigorous evaluation and scrutiny by a well-respected international body independent of government and the industry.
 - (ii) The CAA should have a duty to demonstrate clearly how any proposed growth or change in airspace usage will have a clear causative effect in absorbing the above verified growth in aircraft movements.
 - (iii) Due to the inverse relationship between the period of time a projection seeks to span and its likely accuracy, there should be a stated policy that growth and changes in airspace usage proposed at any one time should not be based on growth in aircraft movements which is projected more than 10 years into the future.

- (iv) There should be a stated policy presumption that aircraft movement growth levels of up to 15% in aggregate as from the inception of this new policy, should be accommodated within the geographical airspace locations already existing at that time. All other credible noise-reduction strategies should be deployed to reduce the impact of such additional flights within this existing airspace, provided they do not conflict with the other criteria set out below.
- (v) There should be a stated policy presumption that only any excess of growth above the stated 15% should be put forward by airspace change ‘sponsors’ as an option for overflying new populations, and only after any other available options have been considered; In addition all other credible noise-reduction strategies should be deployed to reduce the impact of any such new overflights which are contemplated (and within this mix of strategies, dispersion should be favoured over respite unless the affected communities display a clear majority favouring respite over dispersion).
- (vi) Where new overflight under (v) constitutes more than a *de minimis* number of aircraft below 7,000 feet then compensation should be payable based on noise impact and on reduction in value and saleability of homes in accordance with paragraph d below.
- (vii) *The CAA should be empowered and directed to cancel forthwith any extant airspace changes which overfly new populations, and which were introduced between 2013 and the institution of this new policy, with the relevant airspace reverted to its pre-2013 geographical position and dispersion pattern within 6 months (using conventional navigation where necessary). Sponsors of airspace changes would then be invited to put forward new airspace change proposals based on this new airspace policy.*
- (viii) Going forward, airspace change proposals should consult local communities in accordance with the minimum requirements set out in the Annex to this Response.**

d. the airspace change compensation proposals.

- A. Whilst the government’s compensation proposals might be welcomed by the “always previously overflown”, for the newly overflown they are derisory.
- B. Changes in flight paths can reduce the value of properties by a five- or six-figure sum and many people’s retirement plans are locked up in their property. While the damage to people’s home lives and lifestyles, sleep and ultimately health causes both physical and psychological harm.
- C. As a minimum, and as applies to motorway construction, the Land Compensation Act should be amended to provide full compensation for any loss of property

value plus 10% caused by a new, moved or concentrated arrival or departure route. And as applies to motorways, compensation should not be contingent upon sale of the property. Compensation should be paid by the airport concerned on the basis that 'the polluter pays' and would feed through ultimately to airfares which are in any event effectively 'subsidised' at present by airlines paying no fuel tax or VAT.

- D. If the cancellation in F(vii) above is not followed through, then compensation as above should be paid retrospectively to the householders affected.

Q. 2 Assessing Noise in Airspace Decisions

Please provide your views on:

a. the proposal to require options analysis in airspace change processes, as appropriate, including details provided in the draft guidance.

- A. We support the use of comprehensive options analysis in airspace change processes.
- B. However we take exception to the DfT's breath-taking complacency in the opening statement in 5.1:
".....decisions [i.e. by the CAA] have been informed by the needs of all those affected by airspace changes, and the CAA has overseen decisions comprehensively."
- C. We also disagree in the strongest possible terms with the view expressed in paragraph 5.16 of the consultation that *"concentrated routes will often be preferable from a noise point of view for airspace changes below 4,000 feet amsl"*.

If the experience of the last four years at Gatwick have taught policymakers anything, it should be that deliberately concentrating Routes over fewer people is invidious and damaging to peoples' wellbeing and should only be done in wholly exceptional cases and where full compensation both for property value diminution and 'pain and suffering' are paid.

This sentence should be rewritten to read *"concentrated routes can hardly ever be justified for airspace changes below 7,000 feet amsl, whether from a noise point of view or otherwise, and dispersion should be employed in all but the most exceptional case"*.

b. 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 guidance.

- A. The DfT's recognition of the link between noise and chronic health effects is welcome. But there continues to be insufficient analysis and commitment in seeking to understand and address these impacts, especially in relation to noise impacts (a) on the newly-overflown and (b) in areas of low ambient noise.
- B.** The DfT gives the impression it is content for it and the CAA to simply leave it to other organisations to make the running on developing insights into the effects of noise. This is not good enough. The DfT should require all major airports to fund and undertake long-term research into the health impacts of their operations, on an independent basis agreed with community representatives, and to take full account of this research in any airspace change proposals. Similarly noise measurement and public attitude surveys within a radius of 20 miles around airports should be undertaken reviewed and updated on a regular basis.
- C. While we welcome the proposed use of 51 Leq as the 'Lowest Observed Adverse Effect Level' for daytime noise; and 45 Leq for the night, these are still averaged measures and there is need for more elucidation of maximum noise levels and frequency of noise incidents at maximum levels.
- D. However the almost total reliance of the CAA on the 57 Leq in the past (despite it being far from the only metric the CAA was required by DfT to consider in the context of ACPs), and the DfT's acceptance in this consultation of its inadequacy, is yet further reason why earlier CAA decisions must be re-opened and re-run as per paragraph F(vii) on page 5 above.
- E. Nevertheless we reserve our position on the full value of these additional metrics until new contour maps are produced showing the 54 leq and 51 leq contours (for easterly, and for westerly operations); and also the N65, N60 and N55 contours.
- F. We believe the DfT should abandon the policy distinction which treats noise impact differently between 4,000 and 7,000 feet, from that below 4,000 feet. The disturbance still caused to residents between 4 and 7,000 feet should dictate that noise reduction should be the sole priority up to 7,000 feet.

To square this policy change with recognition of climate change impacts, taxation should be introduced upon aviation fuel with the proceeds used to fund carbon reduction schemes in other industries.
- G. The proposed change to the policy of sharing the benefits of noise reduction between the aviation industry and communities by the addition of the words "*in support of sustainable development*" is disingenuous, and belies and devalues any efforts to focus on the measurement and reduction of noise elsewhere in the consultation. The proposed addition of this damning phrase

should be abandoned.

Q. 3 Independent Commission on Civil Aviation Noise

Please provide your views on:

a. the Independent Commission on Civil Aviation Noise's (ICCAN's) proposed functions.

b. 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.

A. Given that ICCAN is in effect a subsidiary of the CAA and has no power to order noise reductions, we see it achieving very little – other than serving as a useful “Aunt Sally” for the government and CAA, if the industry continues to deliver more aviation noise to more people.

B. Instead, ICCAN should:-

- (i) Be wholly independent of the CAA
- (ii) Have a duty to minimise and to reduce noise from all airport operations, with a special duty to balance the interests of communities who are not currently overflown against the interests of the industry.
- (iii) Become a centre of excellence in researching the health and environmental effects of aircraft noise.
- (iv) Advise the CAA on all airspace change proposals in a public and transparent manner; The CAA being mandated to publish its detailed reasons for failing to follow this advice in any respect
- (v) Decide the level of compensation for new flight paths as suggested in section d above.
- (vi) act as an ombudsman for noise complaints with power to order improvements and/or payment of compensation (see Q1d above).

Q. 4 Ongoing Noise Management

Please provide your views on:

a. the proposal that the competent authority to assure application of the balanced approach should be as set out in Chapter 7 on Ongoing Noise Management and further information at Annex F.

b. 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.

- A. We are alarmed by the proposals for shifting controls on aircraft noise from the Department for Transport to the local council or to the airport.

We are far from shocked however, because it seems to us that in several areas in this consultation, the government is seeking (despite its being the only democratically accountable entity in the whole process) to abdicate its responsibility towards communities affected by aircraft noise.

- B. With an airport like Gatwick with which we are most familiar, such arrangements would mean Crawley Borough Council being responsible for noise control measures for the protection of communities which are remote from the town, and with other interested councils wishing to implement different or conflicting proposals in airspace change or planning decisions.

- C. The proposal to transfer noise controls to airports is frankly chilling.**

It would serve to confirm what many communities have come to believe, especially in recent years, that the government has no real interest in any balancing of the interests of the industry with those of residents affected by airport operations.

It is not even fair upon the airport, let alone the communities, because the airport would be hopelessly and obviously conflicted. Gatwick is a commercial business whose primary interests are to maximise aircraft numbers and sell services and facilities to its airline passengers.

What hope is there for any sort of effective regulation if the government cannot readily recognise this?

- c. 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.**

- A. We agree with this proposal.

- B. In relation to performance, at Gatwick airport where we have experience, the online form for submitting complaints about aircraft noise is too prescriptive and cumbersome, and the deep suspicion is that it's been conceived in a way to discourage complaints. Gatwick also appear to have a policy of 'discouraging' residents from using the form and ignoring their complaints if in their opinion someone is complaining excessively.

- d. 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.

- A. We see no evidence that the industry is sufficiently incentivised, nor that it would be were the proposals in the consultation to be adopted.
- B. The available evidence suggests that the industry adopts best practice only where there is no, or minimal, cost to doing so, or where public pressure is impossible to ignore. Examples from our local airport are Gatwick's refusal of the suggestion that non-scheduled QC4 aircraft (which are amongst the most disruptive for residents though relatively few in number) be prohibited from departing at night as scheduled QC4 aircraft are, Gatwick's zero or discounted landing charge policy for night flights in order to fill available capacity, and the almost complete absence of health impact research by airports generally other than in response to Airports Commission requirements.

Q. 5 Guidance

Please provide any comments on the draft Air Navigation Guidance: guidance on airspace & noise management and environmental objectives published alongside this consultation.

- A. All our comments above on the main consultation should be taken as applying also to the Guidance.

Annex

Airspace Change Proposals: What “consultation” must mean as a minimum in relation to communities

- (i) A 6 month consultation period
- (ii) Proposals should be presented to the public with different options for change. Where other or alternative options have been abandoned or discounted, there should be a clear and very detailed explanation of what they were and why this was so.
- (iii) Proposals should be presented with sufficient detail so that an individual householder can see geographically how they would be impacted. This must be done with a list of post codes (or sets of post codes where the impacts would be different) explaining how these post codes (or set of post codes) would be impacted. This should be cross-referenced to clear maps which would also be provided. ('Post code' means providing BOTH the outward code and the inward code).
- (iv) The proposals must clearly set out how households would be impacted according to at least 3 parameters – (a) geographically (b) by altitude, and (c) by frequency of aircraft (averages by hour or by day).

- (v) There must be clear contact details in the proposals where residents can respond, including at least a website, an email address, and a telephone number. These three must be monitored and staffed properly (with telephone available minimum 9am to 5pm Mon to Sat) and the feedback properly documented, collated and made publicly available by website (subject to data protection requirements).
- (vi) These proposals must be sent to every individual household that would be affected, by mail-shot.
- (vii) The mail-shot envelope should clearly alert the householder, e.g. in boldtype: 'IMPORTANT INFORMATION ABOUT POSSIBLE FLIGHT PATHS CHANGES THAT COULD AFFECT YOU'
- (viii) 4 months into the 6 month consultation, a reminder should be sent by mail-shot to each household which has not responded by that time.
- (ix) Other communication methods may also be employed of course (e.g. ads in newspapers, drop-in centres), but NOT in substitution for the mail-shot.
- (x) Verification: The consultation process should be monitored and verified at each stage by a wholly independent organisation. They should publish a report certifying whether they consider the airspace change sponsor has complied with the consultation requirements. If they cannot so certify then the airspace change process cannot proceed further unless the consultation is re-run. The verifying organisation should also receive, investigate and report on any complaints from the public as to the compliance of the consultation process.

The effects of airspace change are dramatic upon peoples' lives, and if the 'sponsor' of the change is not prepared to commit sufficient resources to carry out the consultation properly, then the change should not be proposed in the first place. It is not sufficient to send proposals to Councils, MPs, Councillors and other umbrella bodies since a majority of the population may not be regularly engaged with these representatives, if at all.