

NNF24

Comments on the Applicant's answers to ExA 4WQ

No Night Flights

6th July 2019



ExA 4WQ Ns 4.7

1. In answer to ExA 4WQ Ns 4.7, RSP says:

“As noted previously, the ES is required to assess the likely significant effects resulting from the operation of the proposed development. Single mode operation is highly unlikely and as such does not form part of the consideration of likely significant effects.”

2. We note the admission that RSP has **entirely failed to assess the likely significant effects of single mode operation**. This is a significant flaw in RSP’s ES and in its subsequent submissions to the ExA.
3. It is a fact that single mode operation can prevail for days at a time.
4. The prevailing wind is south-westerly. When that wind is blowing, aircraft land into the wind, arriving over Ramsgate. They then depart into the wind, heading towards Herne Bay. The noise contour map associated with a westerly wind is shown in NNF18 at page 49 [submitted on 13th June 2019]. Day after day after day, night after night, this is the mode of operation in use. Single mode operation for that period is not just likely, it is a predictable given. We know, because we have lived through it for years.
5. The wind sometimes blows from the east. When it does, aircraft land into the wind, arriving over Herne Bay. They then depart into the wind, departing over Ramsgate. The noise contour map associated with an easterly wind is shown in NNF18 at page 48. Day after day after day, night after night, this is the mode of operation in use. Single mode operation for that period is not just likely, it is a predictable given. We know, because we have lived through it for years.
6. A series of single mode operations is the reality that residents, workers and visitors live through. The importance of single mode operations to an assessment of the noise impact has been expressly recognised by the operator of Heathrow Airport in its current consultation about noise mitigation. We have commented on this in NNF22 paras 68 to 72.
7. What RSP has modelled does not reflect reality. RSP has failed to model the likely significant negative impact of its proposals.
8. We urge the ExA to give full weight to the single mode contours produced by the CAA for NNF in the ExA’s consideration of the likely significant negative impact of the Applicant’s proposals

ExA 4WQ Ns 4.12

9. In answer to ExA 4WQ Ns 4.12, RSP says:

“ii. It is at the discretion of the CAA to confirm the positioning of flightpaths during the Airspace Change Process however CAP 1616 seeks to ensure that environmental effects are minimised and as such it is unlikely that the scenario suggested by Five10Twelve and NNF will be adopted by the CAA, who must consider environmental impacts as part of their deliberations.”

10. RSP is being rather selective here in its provision of information. In CAP 1616, the CAA makes it clear that, when considering airspace changes, it is bound by the S.70 of the Transport Act 2000. That section says:

“General duty.

*(1) The CAA **must exercise its air navigation functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) and (3).***

(2) The CAA must exercise its air navigation functions in the manner it thinks best calculated—

(a) to secure the most efficient use of airspace consistent with the safe operation of aircraft and the expeditious flow of air traffic;

(b) to satisfy the requirements of operators and owners of all classes of aircraft;

(c) to take account of the interests of any person (other than an operator or owner of an aircraft) in relation to the use of any particular airspace or the use of airspace generally;

(d) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section;

(e) to facilitate the integrated operation of air traffic services provided by or on behalf of the armed forces of the Crown and other air traffic services;

(f) to take account of the interests of national security;

(g) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification).

(3) If in a particular case there is a conflict in the application of the provisions of subsection (2), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.

(4) The CAA must exercise its air navigation functions so as to impose on providers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.”

11. The over-riding duty on the CAA is to design airspace that is safe and to determine airspace changes that are safe.
12. The CAA approved the flight paths that were previously in operation at the airport. The CAA re-approved those flight paths at every subsequent update of the airport's AIPs. The CAA clearly thinks that the previous flight paths met the over-riding obligation of being safe.
13. The Applicant has produced no information or evidence to suggest that the CAA would in future prioritise the consideration of environmental impacts over safety. It is hard to see what changes to flight paths the Applicant is suggesting will be possible as the flight paths are heavily constrained by safety and by the operational capabilities of aircraft. The Applicant intends to operate a cargo airport. This suggests it will handle a disproportionate number of larger aircraft. These, as we know from our previous discussions with the CAA, have limited room for manoeuvre and will seek an arrival path that allows for a straight line approach to the runway of up to ten miles in length, descending evenly at 3°. Rationally, it is much more likely than not that the CAA will approve the previous flight paths.
14. If RSP has in mind flight paths that are markedly different to the previous flight paths, then it has not produced them for consultation with the public and for consideration by the ExA.