

**Meeting Minutes: Heathrow and the Civil Aviation Authority (CAA)  
 Heathrow's Stage 2 gateway outcome  
 Thursday 16<sup>th</sup> November 2023  
 CAA, Westferry Circus, London**

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**1. Agenda Item: Stage 2 Decision**

**1.1. Transparency and inconsistencies the CAA identified in Heathrow's submission**

1.1.1. Heathrow noted CAP1616 paragraph C1: *"All parties involved in airspace changes require transparency and tailored engagement to meet their unique needs. As such, effective stakeholder engagement is a vital underpinning of the airspace change process."* Heathrow sought confirmation that the CAA are themselves included as a "party" and therefore if the element of transparency also applies to them.

1.1.2. The CAA confirmed that they must engage transparently through the process and have done this by providing feedback on the submission.

1.1.3. Heathrow noted that the CAA's email of 30 October 2023 provided feedback that the tables 40-47 in the Step 2A Options Development document contained some inconsistencies and provided 2 examples. Heathrow asked if these were the only examples or does the CAA have more?

1.1.4. The CAA said that they only provided two examples of the inconsistencies, which they found through a sampling process, and confirmed that the inconsistencies referred to in points 2-4 of the 30 October email were "not showstoppers" for the decision.

1.1.5. Heathrow asked the CAA to share all the inconsistencies that they identified with Heathrow in the interest of transparency. Heathrow stressed the importance of ensuring they are able to correct any inconsistencies identified within the submission.

1.1.6. Heathrow also highlighted the fact that points 2-4 of the 30 October email had been stated as contributing reasons for the CAA's decision to fail Heathrow at the gateway, both in the email to Heathrow and in the public outcome document published on the portal. Heathrow questioned the CAA's use of the phrase "not showstoppers" and asked for clarity on this.

- 1.1.7. Heathrow questioned why the CAA did not give this feedback [points 2-4] at the original August gateway and queried at what point in time items 2-4 were identified.
- 1.1.8. The CAA requested Heathrow send them written questions on this issue and they would respond in writing.
- 1.1.9. **Meeting Afternote:** The CAA responded to the submitted questions in a letter dated 26 Jan 2024.

## **1.2 The CAA's decision in relation to Criterion 2**

- 1.2.1. Heathrow noted that the CAA had determined Criterion 2 [of the criteria for the Stage 2 Develop & Assess Gateway] was not met during its assessment: "*The change sponsor must have engaged with relevant stakeholders to explore those options to the CAA's satisfaction against the requirements in Appendix C*". Heathrow confirmed that it interprets this Criterion to relate to the engagement required by CAP1616 to be undertaken following the development of the Comprehensive List of Options and noted that the CAA did not raise any concerns related to this engagement during its assessment. Heathrow stated that all subsequent engagement on the airspace change was voluntary and that it went above and beyond what is required under CAP1616 criteria. Heathrow sought clarification on the CAA's determination that Criterion 2 was not met.
- 1.2.2. The CAA stated that Stage 2 only has four listed criteria for assessment, and that Criterion 2 was applied to Heathrow's voluntary engagement on the Initial Options Appraisal (IOA).
- 1.2.3. Heathrow clarified that the purpose of the IOA sessions in June/July 2023 was to inform stakeholders on the approach which had been taken to the IOA and the shortlisting of options and to share the results of that work. The engagement material contained wording to make clear to stakeholders that any results shared were indicative and subject to change. Heathrow believes the purpose of these sessions was mischaracterised in the correspondence that the CAA received from Friends of Richmond Park's lawyers and queried whether the engagement materials (which clearly explained the purpose of the sessions) have been considered by the CAA in their gateway assessment.
- 1.2.4. Heathrow emphasised its position that it has fulfilled the engagement requirement related to Criterion 2 within the regulatory process.
- 1.2.5. The CAA requested more time to review Heathrow's points.

## **1.3 The CAA states that Heathrow "took a different approach" when shortlisting options to the approach that had been engaged upon.**

- 1.3.1. Heathrow questioned the CAA's statement that it "took a different approach" when shortlisting options. Heathrow sought clarification on whether the CAA was referring to the change made to the outcome of Option I after the IOA sessions, the results for Tests 4 and 5 not leading to the discontinuation of options, or something else.
- 1.3.2. The CAA responded that while they recognised Heathrow's engagement was above and beyond, they believed Heathrow changed its approach to shortlisting after inviting feedback from stakeholders on the original approach.
- 1.3.3. Heathrow asked for specifics on what part of the approach was changed, stating that this element is fundamental to understanding the reason for the gateway failure and any next steps to resolve the situation.
- 1.3.4. The CAA believed that Heathrow changed its approach to applying the five tests and didn't give stakeholders time to comment on the change before the submission.
- 1.3.5. Heathrow disagreed, stating that all 151 shortlisted options had been assessed against all six tests. They reinstated Option I to correct an inconsistency identified in the outcomes prior to submission and Tests 4 & 5 were both applied.
- 1.3.6. Heathrow noted that it informed the stakeholder group most affected by this decision prior to the gateway, explaining its reasoning and acknowledging the stakeholders' concern. Heathrow then informed all stakeholders on the 11<sup>th</sup> August 2023 and received no further feedback. Heathrow stated that it believed this correction to the outcome of Option I did not constitute a change to the approach and therefore felt it more appropriate to inform stakeholders once all submission material was visible on the CAA Portal.
- 1.3.7. Heathrow stated that it had provided this information to the CAA through their response to the CAA's clarification questions prior to the rescheduled October gateway and questioned if the CAA had considered this in their decision to fail Heathrow at the gateway.
- 1.3.8. Heathrow stated that they cannot resolve the CAA's issues with their Stage 2 submission until they understand why the CAA determined that they "changed their approach".
- 1.3.9. The CAA requested Heathrow to send them written questions on this issue and promised to respond in writing.
- 1.3.10. **Meeting afternote:** The CAA responded to the submitted questions in a letter dated 26 Jan 2024.

#### **1.4. The CAA's public communication of the gateway decision**

- 1.4.1. Heathrow expressed concern that the portal statement implies it misled its stakeholders, which is inaccurate and risks damaging their relationship with stakeholders.
- 1.4.2. Heathrow asked why they were not given a chance to comment on the portal statement before it was published and asked about the CAA's governance procedure for sign-off on significant public-facing communications.
- 1.4.3. The CAA explained that the statement was put together by the CAA regulation team and reviewed by the CAA's legal counsel.
- 1.4.4. The CAA requested that Heathrow send their concerns in writing for further review and response.

## **1.5 Consistency of regulatory decisions across all airports**

- 1.5.1. Heathrow noted the importance of ensuring consistency in the CAA's decision-making process, noting that London Luton Airport engaged/informed stakeholders on their IOA approach and outcomes the day before their Stage 2 submission. Heathrow noted that Luton passed the Stage 2 Gateway despite not giving stakeholders an opportunity to provide feedback.
- 1.5.2. The CAA responded that they did apply consistency in their decision making, and that proportionality is also considered. They noted Heathrow's concern but couldn't provide further comment without reviewing both the submissions in this context.
- 1.5.3. The CAA requested that Heathrow send their concerns in writing for further review and response.

## **2. Agreed Actions**

- 2.1. Heathrow to provide the CAA with a written copy of all their questions and a chronology of events relevant to the Stage 2 Gateway decision.
- 2.2. The CAA to provide Heathrow with all inconsistencies identified in tables 40-47 in Heathrow's Step 2A Options Development document.
- 2.3. The CAA to provide written responses to Heathrow's questions in relation to the Stage 2 Gateway decision.
- 2.4. **Meeting Afternote:** The CAA responded to the submitted questions in a letter dated 26 Jan 2024

## **3. AOB**

- 3.1. None