

From: [REDACTED]
To: [Manston Airport](#); [REDACTED]
Subject: Example of Refused Airspace
Date: 05 July 2019 23:52:39
Attachments: [CAP1805A LBA ACP 2015 10 Consultation Assessment Redacted.pdf](#)
[CAP1805 Leeds Bradford ACP Decision\(web\) \(1\).pdf](#)

Dear Sirs

I attach an example of a refused Airspace Change Process. The CAA document clearly explains the grounds of refusal.

Cheers

Samara

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Title of Airspace Change Proposal	Leeds Bradford Airport (LBA) (ACP-2015-10)
Change Sponsor	LBA (Osprey CSL as project management)
SARG Project Leader	
Case Study commencement date	08/04/2019
Case Study report as at	23/04/2019
File Reference	ACP-2010-15

Instructions
In providing a response for each question, please ensure that the 'Status' column is completed using the following options: • Yes • No • Partially • N/A To aid the DAP Project Leader's efficient Project Management it may be useful that each question is also highlighted accordingly to illustrate what is resolved Green not resolved Amber or not compliant Red as part of the DAP Project Leader's efficient project management.

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1.	Consultation Process	Status
1.1	Is the following information complete and satisfactory?	
	• A copy of the original proposal upon which consultation was conducted.	YES
	• A copy of all correspondence sent by the sponsor to consultees during consultation.	YES
	• A copy of all correspondence received by the sponsor from consultees during consultation.	YES
	• A referenced tabular summary record of consultation actions.	YES
	• Details of and reasons for any changes to the original proposal as a result of the consultation.	YES
	• Details of further consultation conducted on any revised proposal.	YES

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1.2	Were reasonable steps taken to ensure all necessary consultees actually received the information e.g. postal/e-mail/meeting fora?	YES
	The sponsor undertook a comprehensive set of briefings in anticipation of the consultation through the airport Consultation Committee and other fora. Whilst some stakeholders questioned the level of publicity, on balance, the sponsor achieved an acceptable level of publicity.	
1.3	What % of all operational consultees replied? (Include actual numbers).	16(3.9%)
	There were no responses to the consultation from airport operators, although that can be attributed to the relatively benign nature of the proposal for those operators. MoD responses were channelled through DAATM via NATMAC. Of the targeted stakeholders, only 2 of 19 identified Aerodromes, Clubs and Flying Clubs sent responses. Of interest, a further 10 aerodromes, Flying Schools and Flying Clubs submitted responses; that calls into question the stakeholder identification process. More significantly, other airspace users challenged the proposal on the grounds of justification, proportionality and access with GA and NATMAC organisations forming the body of response endorsed by local clubs through the Regional Airspace Users Working Group. A large number of responses were also received by private pilots (252) objecting to the proposal.	
1.4	What % of all environmental consultees replied? (Include actual numbers).	4 (1.29%)
	Of those environmental stakeholders identified, the response was extremely low. That said, a number of affected community representatives engaged strongly on behalf of their local populace and continue to do so. Only 1 MP out of 30 MPs consulted responded to the consultation. Three non-aviation bodies supported the proposal, on economic grounds whilst other responses voiced concerns over environmental impact borne from the technical nature of the information presented in the consultation document. A further 144 responses from private individuals/interested bodies were received, with the majority objecting to the proposal on environmental grounds.	
1.5	Were reasonable steps taken to ensure as much substantive feedback was obtained from the consultees e.g. through follow-up letters/phone calls?	NO
	The sponsor maintained an ongoing dialogue with the stakeholders concerned. In certain cases, however, the response time for feedback was inadequate leading to antagonism from stakeholders which slowed the progress of the proposal. Whilst the sponsor subsequently extended the response period, this occurred following pressure from the CAA.	
1.6	Have all objections to the change proposal been resolved (or sufficiently mitigated)?	NO
	The objections to the proposal fell into a number of categories:	

- **Justification.** The sponsor explained that change was required due the current situation being unsustainable, that future growth predictions required change, and that DVOR rationalisation/PBN/FASI(N) made change inevitable. Whilst the latter justifications were entirely valid, the issues surrounding current situation/future expansion were not adequately justified and the subsequent responses to stakeholders were ambiguous and indicated a reactive approach by the sponsor. The publication of safety-related incidents did not clearly establish a causal link to airspace structure.
- **Proportionality.** The sponsor chose to justify the final airspace design on the containment requirements for the IFP designs submitted, most notably for the CTAs proposed for the north and east of the area. These CTAs were considered most contentious by GA stakeholders, as they allegedly introduced barriers to operations for non-radio/non-transponder equipped. That effectively precluded cross-country gliding operations from a number of sites. The sponsor's suggested mitigation, that access was available for those who participated in ATC, was insufficient given that those GA organisations raising the objection clearly stated that the impact would be on those unable to participate in ATC. Whilst the sponsor also looked to mitigate the issue through Letters of Agreement, the issue of cross-country gliding/paragliding/hang-gliding has not been adequately addressed. It is significant that the sponsor did not appear to reassess IFP designs in order to further mitigate impact or attempt to reduce the volume of airspace requested, nor at this time have those original designs been formally validated. Consequently, if those designs fail to validate, for whatever reason, it is likely that further consultation would be required, as redesign may materially change aircraft tracks over the ground.
- **Complexity.** A large number of respondents to the consultation objected to the complexity of the airspace design and the number of different CTA/CTRs proposed. That said, the complexity occurred due to the interface with the en-route airspace above the proposed airspace rather than below; consequently, this was adequately explained by the sponsor.

In addition, environmental stakeholders commented on the technical complexity of the consultation material. It is notable that the consultation material contains a large number of technical IAP plates/environmental impact diagrams that have very little explanation for those without detailed subject knowledge. The inclusion of an existing turbo-prop aircraft route in the original consultation document, but then not subject to the proposal, further exacerbated the issue and, in part, lead to the addendum consultation.

- **Impact on other airspace users.** In addition to the issues raised by the gliding/hang-gliding/paragliding stakeholders, the issues raised by consultees of 'choke-points', funnelling and access were largely dismissed by the sponsor. Despite the offer by the sponsor of a revision to the 'Upton Corridor' and various Letters of Agreement, none of these activities have been concluded. The only firm mitigation offered by the sponsor remains that those 'participating in ATC' would not be inconvenienced by the proposal, despite the submission of the ACP some considerable time ago. Whilst the sponsor has suggested an additional radar position to facilitate access to the revised airspace, the sponsor has not submitted evidence of previous refusal rates against which future access could be judged. Accommodations for the MoD have been made, but that fails to address the concerns of non-radio/non-transponding users.

- **Process.** Overall, the sponsor has attempted to follow the CAP 725 process, although a number of stakeholders objected based on the requirements of CAP 1616; the CAA authorised the project to be undertaken under CAP 725 process given its long gestation period as a legacy proposal developed under previous guidance; consequently; these objections are dismissed. Requests from stakeholders for the publication of all consultation responses (iaw CAP1616) do not accord with CAP 725 practice whereby raw responses are submitted to the CAA, but consultees are given an assurance that responses/personal data will not be published without permission in accordance with extant Data Protection legislation. A number of complaints have been raised due to the sponsor's inability to meet potential documentation publication dates for consultation material; these are administrative issues that would not compromise the conduct of the consultation in itself; the content and conduct in accordance with accepted consultation principle/Gunning is more relevant.

However, a number of process issues have arisen. The proposal involves reducing the base of CAS to the East of the airport from FL125 to 3,500ft above mean sea level (amsl). The sponsor failed to identify environment stakeholders within that area and they were not included in the formal consultation. Once this omission was identified, the sponsor engaged those Councils affected. However, the stance taken by the sponsor was that the noise impact at 4,500ft amsl (the minimum altitude for aircraft in that proportion of airspace) was 'not significant'. Current Government Air Navigation Guidance specifies that aircraft noise is no longer significant at or above 7000ft amsl and it is disappointing that the sponsor chose to dismiss concerns on this basis.

A number of diagrams within the Consultation Feedback document presented pie-charts with a number of segments that did not match the number of stakeholder groups described in the associated key. Whilst this seems a minor point and a potentially simple oversight, it does not provide an accurate synopsis of the consultation outcome that leads to the inference that the consultation was not rigorously assessed, nor were stakeholders adequately appraised of the outcome.

In assessing the consultation, the Gunning Principles apply:

- Consultation must take place when the proposal is still at a formative stage

The airspace design was presented to the CAA is largely as consulted upon and shows little attempt at modification. The Consultation Feedback document itself generally categorises objections as unworkable stating that sponsor will not consider modification. Whilst some mitigations are offered, they are generally aimed at those airspace users able to participate with an ATS service and does not cater those who cannot. This is specific to the loss of amenity for cross-country gliding/para-gliding activity to the North of the airport. Whilst the strategic options in the consultation were 'do nothing' etc, stakeholders were presented with one option, ostensibly the proposal presented for regulatory assessment.

- Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response

The justification for this proposal was presented ambiguously and has changed dependent on responses to questions by stakeholders. The initial premise was that the existing airspace was insufficient for current operations, yet these operations continue in a safe manner. The table of safety-related incidents presented does not relate to airspace issues in the majority of cases. Reference to growth and airport infrastructure issues have been challenged as unsubstantiated, and not adequately explained by the sponsor; references to FASI(N) and DVOR are entirely valid but are obscured by an emphasis on those other factors. The sponsor has failed to present a coherent and consistent justification for change.

- Adequate time must be given for consideration and response

In a specific case, the sponsor conducted a Q&A meeting with a local Parish Council having refused requests for a public meeting. The meeting was held on 29 November 2017 (a Wednesday). The response window for stakeholders was effectively limited to 48-hours to accord with the intention of concluding the consultation. Whilst this period was subsequently extended following pressure from stakeholder groups, the initial intentions of the sponsor did not fulfil the Principle

- The product of consultation must be conscientiously taken into account.

As previously stated, the proposal presented is largely as consulted upon, and does not mitigate the objections of certain GA groups, specifically the BHPA whose members are unable to participate in clearance-based access to CAS. Whilst there is reference to Letters of Agreement, these refer to the presented airspace design, rather than amending the overall proposal; that indicates that sponsor does not wish to compromise. From the evidence submitted by stakeholders and the response by the sponsor, it is apparent that the sponsor believes that the accommodation of some GA stakeholders is forfeit; whilst it may be the case when there are no alternate circumstances pursuant with s70 of the Transport Act 2000, that does not accord with the spirit of the process.

There is a large amount of raw data concerning the interaction between the airport and the two communities directly affected by departures from Runway 32. Much of the acrimony associated with this engagement regards the distribution of aircraft within the agreed s106 Noise Preferential Route (NPR); it is a longstanding concern of the communities involved and revolves around route deviation and airport expansion. Route deviation is a justified major concern in the Proposal and due to the depiction of routes in the original consultation document, led to confusion and the requirement to issue an addendum consultation document. Airport expansion is not a direct reason for airspace change in itself, but the sponsor used future expansion within its consultation material, thus confusing stakeholders.

A large number of objections associated with the consultation refer to administrative matters that do not directly compromise the consultation being assessed, and it is regrettable that these objections have consumed time and effort, when the proposal should

be assessed against s70 the Transport Act 2000. The Consultation Feedback Document refers to the overall consultation period but does not acknowledge the fact that extensions to the original period were forced rather than offered.

In respect of the Selby area, the sponsor was resistant to carrying out engagement despite advice by the Regulator at that time.

This Consultation is also assessed against ‘Government Consultation Principles (2016): it is accepted that revised Consultation Guidance was re-issued in 2018; however, the proposal was consulted upon under the previous guidance

- **Consultations should be clear and concise:** In this case, the sponsor was required to conduct an addendum consultation due the lack of clarity in the original consultation material. Once submitted, technical experts required further clarification of the procedures being proposed leading to the conclusion that the layperson would have difficulty in assimilating the impact of the proposal.
- **Consultations should have a purpose.** The purpose referred to in this case is to seek feedback on a proposal when it is at a formative stage (see Gunning Principle 1), not because the process requires it. Regrettably the CAA’s view of the sponsor’s reticence to engage, suggests to the latter.
- **Consultations should be informative.** Informative refers to providing information to stakeholders that can be understood and can allow a clear opinion to be formed. A number of diagrams in the consultation material are unintelligible unless the reader has specific airspace/environmental knowledge.
- **Consultations are only part of a process of engagement.** The sponsor continues to engage with stakeholders.
- **Consultations should last for a proportionate amount of time.** Whilst the sponsor fulfilled the basic requirement of CAA/Gov’t guidance/requirements, extensions to consultation periods required due to changing circumstances were resisted by the sponsor.
- **Consultations should be targeted.** The sponsor failed to identify a swathe of stakeholders in the Selby area who could be potentially affected by the change. Once this error was identified, the sponsor was reticent to engage. Once the sponsor did engage, the mitigation offered was that aircraft noise at 4,500ft amsl was not considered ‘significant’. ANG states that aircraft noise is only no longer of significance at or above 7000ft amsl.

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	• Consultations should take account of the groups being consulted. Whilst objections have been raised concerning the manner in which the sponsor engaged with certain communities, there is no evidence to suggest that the sponsor disadvantaged any specific group.	
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Outstanding Issues		
Serial	Issue	Action Required
1		
2		

Additional Compliance Requirements (to be satisfied by Change Sponsor)	
Serial	Requirement
1	
2	

Recommendations	Yes/No
Does the Consultation Report and associated material meet SARG requirements?	NO
The consultation activity does not satisfy CAA requirements.	

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General Summary

Whilst the sponsor discussed various initial options such as 'Do Nothing' etc, the consultation focused on a single proposal that, in hindsight, the sponsor did not wish to change as evidenced by its reticence to fully consider other options proposed by other airspace users. The sponsor was also resistant to guidance when it came to extending consultation or for providing addition avenues for engagement. This led to the CAA's view that the sponsor was just 'ticking boxes'. The proposal fails on a number of the Gunning Principles and so the CAA cannot approve this airspace change. Moreover, there are concerns that compliance with ANG and Gov't Consultation Principles are weak or non-compliant. Consequently, it is considered that this consultation is non-compliant.

Comments & Observations

A number of activities concerning IFP validation and draft Letters of Agreement have yet to be undertaken by the sponsor despite the proposal being submitted a significant time ago. That would also preclude approval of the proposal at this time.

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Consultation Assessment Sign-off/ Approvals	Name	Signature	Date
Consultation Assessment completed by:	 Airspace Regulator		23/04/2019
Consultation Assessment approved by:	 Mgr AR		17/05/2019
Mgr AR Comments: The approach detailed above would not lead to a consultation that is acceptable to the CAA. The CAA requires evidence of a robust and transparent consultation exercise; this has not been provided. I support the conclusion reached by the Airspace Regulator; the consultation is not good enough to approve.			

Hd AAA Comment/ Approval	Name	Signature	Date
Consultation Assessment Conclusions approved:	 Hd AAA		21/05/2019
Hd AAA Comments: This ACP Fails as the consultation falls short of that which is required.			

Leeds Bradford Airport ACP2015-10

CAP 1805



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Civil Aviation Authority
Aviation House
Gatwick Airport South
West Sussex
RH6 0YR

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This document is available at: www.caa.co.uk/CAP1805

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Executive summary

Objective of the proposal

This document details the UK Civil Aviation Authority's (CAA) decision regarding Leeds Bradford Airport's (LBA) Airspace Change Proposal (ACP) to introduce new Standard Instrument Departures (SIDs), Instrument Approach Procedures (IAPs) and to expand Controlled Airspace (CAS) around the airport. The ACP was submitted on 18th December 2018.

Summary of the decision made

1. The CAA has decided not to approve ACP 2015-10.

Next steps

2. Should the sponsor decide to address the issues identified, any future submission must follow the current ACP process as documented in Civil Aviation Publication 1616.

Decision process and analysis

Aims and objectives of the proposed change

3. LBA identified a requirement to update flight procedures and airspace around the airport as part of the Future Airspace Strategy Implementation (North) (FASI(N)) program and in response to European legislation¹ that requires airports to introduce new procedures that utilise Performance Based Navigation (PBN).

Chronology of proposal process

Framework Briefing

4. A Framework Briefing took place at CAA House, London on 23rd Sep 2016. During this briefing, LBA outlined its position. Having started the project in 2013, the sponsor highlighted that it believed that the current airspace was no longer fit for purpose, as the current procedures were not fully contained in controlled airspace. There was limited airspace for sequencing and there were issues in containing the increased volume of traffic. The sponsor confirmed that the initial conceptual design was too ambitious, too complex and would have had a significant adverse impact on other airspace users. LBA also stated it had concerns with regard to the maintenance of Doncaster Sheffield Airport's Class D airspace and how there was an assumption that this would be required to remain extant in order to progress their proposal. Other issues highlighted were the turnover of staff at the airport and the ongoing engagement with Prestwick Centre. Despite these issues, it was stated that RNAV SIDs, transitions and approach procedures had been developed in conjunction with Prestwick Centre and the Prestwick Lower Airspace Systemisation team. Furthermore, due to the Section 106 Agreement granted by Leeds City Council, it was agreed to replicate the current SIDs in order to avoid changing the Noise Preferential Routes (NPRs).

Consultation

5. The consultation was started on 23rd June 2017 and was extended, through an Addendum Document, until 29th December 2017 due to some confusion regarding

¹ European Implementing Rule 2018/1048.

the details in the consultation material. An area of the proposed airspace encroached on several Parish Councils that had not been included in the initial distribution of consultation notifications. Having been advised of the omission by the CAA, the sponsor resisted further engagement until pressed. It is stated in the Consultation Feedback Report that the Consultation Document, was circulated to 408 organisations and individuals, including the MOD, airlines, aircraft operators and many national bodies representing the aviation community, such as the National Air Traffic Management Advisory Committee (NATMAC). Sixteen responses were received from these consultees and a further 429 responses were received from other individuals, members of the GA community and other organisations.

Submission of Airspace Change Proposal

6. The formal ACP was submitted to the CAA on 18th December 2018. It was published on the CAA's website to ensure process transparency. However, there were a number of associated documents (enclosures) omitted at the time of submission. As a result of this, the assessment did not commence until 21st Jan 2019. The assessment process raised the requirement for the CAA to be provided with further information and a meeting was held at CAA House on 6th February 2019 in order to raise questions with the Change Sponsor. The CAA then identified inadequacies in the consultation process because of this meeting and its ongoing assessment of the ACP.

CAA analysis of the material provided

7. As a record of our analysis to date, with regard to this ACP, the CAA has produced:
 - [A Consultation Assessment](#).

This assessment has been published on the CAA Website.

CAA assessment in respect of operations and the environment

8. The CAA considered the airspace change proposal and all the consultation material(s) submitted. The CAA is satisfied, owing to the recommendations that have resulted from the consultation assessment, that there is no requirement to conclude an operational or an environmental assessment at this stage.

CAA assessment and decision in respect of consultation

9. The Consultation Assessment was undertaken with reference to the Gunning Principles² and Government Consultation Principles³.
10. The CAA Consultation Assessment⁴ details the reasons for the failings of the consultation process. The key elements that did not meet the regulatory standards are as follows:
 - a) The justifications for the changes were presented ambiguously and were difficult to comprehend⁵.
 - b) The Operators and Owners of all classes of aircraft⁶ who participated in the consultation did not have their concerns, which were raised in the consultation process, conscientiously considered and mitigated adequately.
 - c) Consultations should be informative⁷ and provide enough information for those participating to understand the issues. The diagrams presented in some of the submitted documents do not accurately portray the impact of the change to the communities involved.

Explanation of statutory duties

11. The CAA has a regulatory duty to assess all ACPs, against Section 70 of the Transport Act 2000.

² Gunning Principles (R v. London Borough of Brent ex parte Gunning [1985] 84 LGR 168)

³ Cabinet Office Consultation Principles: [Guidance 2016](#)

⁴ CAA Consultation Assessment for ACP 2015-10

⁵ Second part of the Gunning Principles

⁶ s70(2)(a) Transport Act 2000

⁷ Cabinet Office Consultation Principles

CAA's regulatory decision

12. As a result of the inadequacies of the consultation element of this ACP and noting the anticipated impacts on the material factors we are bound to take into account, the CAA must exercise its duty in accordance with s.70 of the Transport Act 2000. The CAA has decided not to approve this ACP.

Conditions

13. None; any further application will be progressed under the CAP 1616 process.