

Economic regulation of Heathrow Airport Limited: an update on the CAA surface access policy

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Contents

Contents	3
About this document	4
Introduction and Summary	5
Introduction	5
Stakeholders' views	8
Main issues raised in this working paper	8
Next steps	8
Our duties	9
Structure of this document	9
Chapter 1	10
Development of our Surface Access Policy	10
Introduction	10
The October 2018 Consultation	10
Responses to the October 2018 Consultation	12
CAA's views	15
Western Rail Access	18
Chapter 2	19
The CAA surface access policy	19
Introduction	19
The CAA's surface access policy criteria	19
Appendix A	23
CAA duties	23
Appendix B	25
Letter to Heathrow Airport Limited regarding the process for an early consideration of a contribution DfT's Western Rail Link project	25

About this document

This paper follows on from the consultations that we published on the regulatory framework to support capacity expansion at Heathrow airport in January, June and December 2017 and April and October 2018.¹ It provides an update of our policy on the surface access costs that Heathrow Airport Limited (“HAL”) should be allowed to recover from airport charges.

As noted above we have consulted a number of times on surface access policy and now regard the high-level policy as set out in this paper as settled. Nonetheless, we will consult where appropriate on the application of this policy to projects or groups of projects that HAL brings forward for funding under these arrangements (and if the application of this policy were to reveal unexpected difficulties we do not rule out consulting further on the underlying policy).

If you would like to discuss any aspect of this document, please contact Abigail Grenfell (abigail.grenfell@caa.co.uk).

¹ All the CAA consultations can be found on our website at: <http://www.caa.co.uk/Commercial-industry/Airports/Economic-regulation/H7/Consultations-and-policy-documents/>

Introduction and Summary

Introduction

1. This paper sets out our policy for allowing HAL to recover, through airport charges, the costs of surface access projects at Heathrow airport, consistent with our duties under the CAA12. We will use this surface access policy to guide the allowances we make for Heathrow Airport Limited's ("HAL") surface access costs (including the contributions it makes to third party schemes) at the next main price control for the period covering the construction of new capacity at Heathrow airport.

The CAA's Surface Access Policy

2. Our previous surface access policy was adopted in our decision on the price caps for Heathrow and Gatwick airports in 2008 (Q5).² It set out how we would make allowances for the costs of surface access projects at regulated airports to be passed on to airlines (and, ultimately, users) through airport charges. It was based on the following key principles:
 - consumers' interests are unlikely to be furthered by airport operators bearing the costs of such projects beyond those which are necessary either (i) to enhance the efficient operation of the airport or (ii) to secure planning permission for expansion; and
 - the users of surface access projects should pay for them as far as this is practicable (the "user pays" principle).
3. In 2017, we said it would be sensible to review this policy to ensure it was consistent with our duties under CAA12 and that it remained appropriate for the issues likely to arise from capacity expansion at Heathrow airport. We discussed

² Airports review – policy issues consultation paper, December 2005 (see Annex D). See: https://webarchive.nationalarchives.gov.uk/20140605144844/http://www.caa.co.uk/docs/5/ergdocs/erg_ercp_airportsreview_dec05.pdf

our surface access policy in consultations issued in June³ and December⁴ 2017 with more detailed updates in April,⁵ May⁶ and October⁷ 2018.

4. In the October 2018 Consultation, we said that the key principles of our surface access policy remained valid, including:

- for a surface access project to warrant funding from airport charges it must be required for the efficient operation of the airport or to meet planning requirements for expansion;
- costs must be efficient;
- direct users must contribute to the costs of the project as far as practicable (the ‘user pays’ principle); and
- residual costs (after direct users have contributed) should be apportioned between airport users and non-airport users according to the benefits they gain.

5. Nonetheless, we also confirmed that, following stakeholders’ responses to the views set out in the April 2018 Consultation, some important refinements to our policy would be appropriate, including that we should:

- take a more holistic approach to allow for multi-modal surface access strategies required under the planning process to meet wider legal and environmental targets;
- allow for journeys to the airport by staff, cargo and in relation to other airport operation services in assessing the benefits of a project or strategy; and
- accept Transport for London’s (“TfL”) representations that apportioning costs on the basis on benefits to the different users alone may not always be appropriate and reiterated that we should include an additional test to establish that, where appropriate, airport users properly fund the efficient incremental costs of surface access projects of connecting the airport to a wider surface access scheme.

³ CAP 1541 Consultation on the core elements of the regulatory framework to support capacity expansion at Heathrow. See: www.caa.co.uk/CAP1541

⁴ CAP 1610 Economic regulation of capacity expansion at Heathrow: policy update and consultation. See: <https://cms.caa.co.uk/CAP1610>

⁵ CAP 1658 Economic regulation of capacity expansion at Heathrow: policy update and consultation April 2018 (“the April 2018 Consultation”). See <https://caa.co.uk/CAP1658>

⁶ CAP 1674 Economic regulation of capacity expansion at Heathrow: working paper on the cost of capital and incentives May 2018. See: <https://www.caa.co.uk/cap1674>

⁷ CAP 1722 Economic regulation of capacity expansion at Heathrow: policy update and consultation October 2018 (“the October 2018 Consultation”). See <https://cms.caa.co.uk/cap1722>

6. This paper summarises the responses to the October 2018 Consultation and explains how we have taken these into account in updating our surface access policy. We make some further revisions to the detail of the policy where appropriate in response to stakeholders' comments. We also provide an update on our engagement with HAL, the Department for Transport ("DfT") and other stakeholders on our processes for assessing potential contributions from HAL to the Western Rail Link ("WRL") to Heathrow airport.

The Airports National Policy Statement

7. On 26 June 2018, following the approval of the House of Commons, the Secretary of State for Transport designated the Airports National Policy Statement ("NPS") under section 5(1) of the Planning Act 2008 ("PA08").⁸ The NPS sets out considerations relevant to any application for development consent to which the NPS relates. In relation to capacity expansion at Heathrow airport these include requirements to develop an appropriate surface access strategy.
8. Capacity expansion at Heathrow airport will lead to substantially more need to access the airport by land for passengers, staff, service providers and freight operators. The NPS requires HAL to show how it will mitigate the impact of expansion on local communities and the wider environment, including demonstrating that capacity expansion will not affect the UK's ability to comply with its legal obligations on air quality and ensuring that access to the airport is high quality, efficient and reliable.⁹ HAL must develop a surface access strategy to:
- promote sustainable modes of transport;
 - reduce congestion and environmental impacts;
 - reach a target of 50% of all journeys to and from the airport being by public transport by 2030, increasing to 55% in 2040; and
 - decrease staff car journeys by 25% and 50% to the same timescales.
9. HAL will develop its application for a development consent order ("DCO") to permit the construction of new capacity at Heathrow airport in the light of the NPS and the responses to its public consultations on capacity expansion.¹⁰ We understand that HAL's DCO application will include a surface access strategy designed to meet the requirements of the NPS. It is not the CAA's role to decide whether any surface access strategy put forward by HAL meets the requirements of planning law. Our role is to ensure that the allowances we make for costs in

⁸ See:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714106/airports-nps-new-runway-capacity-and-infrastructure-at-airports-in-the-south-east-of-england-web-version.pdf

⁹ <https://www.gov.uk/government/publications/airports-national-policy-statement>

¹⁰ <https://www.heathrowconsultation.com/>

setting HAL's price control represent efficient costs that are consistent with the surface access policy discussed in this working paper. This assessment will encompass any contributions HAL might make to surface access schemes promoted by third parties and that it is seeking to recover through airport charges (including the WRL).

10. HAL's DCO application will be assessed by the independent Planning Inspectorate, before a final decision on whether to grant a DCO (and on what terms) is made by the Secretary of State, or a designated minister.

Stakeholders' views

11. We received responses to the October 2018 Consultation from eleven stakeholders and these are addressed below. Where we have addressed respondents' comments in previous consultations, we have not necessarily repeated our views in this document. Where comments are outside the scope of this paper, they will, where relevant, be addressed in future CAA publications.

Main issues raised in this paper

12. This paper confirms that the key principles in our surface access policy remain valid, but we have introduced some changes to the drafting of our policy including to reflect the views of respondents to the October 2018 Consultation. The changes include ensuring that our policy allows for the efficient provision of future schemes, provides obligations on HAL to provide high quality information and reflects the importance of taking full account of the interests of consumers. There are also other relatively minor changes that are intended to improve clarity or reflect more accurately our policy intentions.
13. Our focus remains on assessing what level of efficient costs are in consumers' interests and which should, therefore, be passed through to airlines in airport charges. Notwithstanding comments from some respondents, as discussed above, it is not our role to determine whether the surface access strategy will meet the targets set out in the NPS, or to prescribe specific mitigation measures that HAL must include in its strategy.

Next steps

14. As noted above, we have consulted a number of times on our surface access policy and now regard the high-level policy as settled. Nonetheless, where appropriate we will consult on the application of this policy to projects or groups of projects that HAL brings forward for funding under these arrangements (and if the application of this policy were to reveal unexpected difficulties we do not rule out consulting further on the underlying policy).

Our duties

15. In developing this paper, we have had full regard to our statutory duties under the CAA12, which are set out more fully in Appendix A.

Structure of this document

16. The structure of this paper is as follows:
- chapter 1 deals with the responses to the October 2018 Consultation, explains that we are retaining the key principles in our surface access policy but making refinements to the policy where appropriate;
 - chapter 2 provides the detail of our updated surface access policy, including further changes that we have made following the October 2018 Consultation;
 - Appendix A sets out our duties under the CAA12; and
 - Appendix B reproduces a letter we sent to HAL and stakeholders outlining our process for an early assessment of any proposal to make a contribution to the WRL.