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Dear Sir/Madam,

**Civil Aviation Authority - Economic regulation of capacity expansion at Heathrow: policy update and consultation, CAP 1722**

Highways England welcomes the opportunity to respond to the latest CAA consultation on the economic regulation of the proposed expansion of Heathrow Airport. As explained in our response to the previous CAA consultation on 29 June 2018, Highways England is a government owned company which operates, maintains and improves the strategic road network (SRN) as the strategic highway company appointed under the provisions of the Infrastructure Act 2015 in accordance with the [Licence](#) issued by the Secretary of State for Transport and is a statutory consultee to the planning process.

As stated in our 29 June consultation response, the proposed expansion of Heathrow Airport has a significant impact on the SRN both during construction and operation and imposes constraints on its future development. Highways England is committed to working with Heathrow Airport Limited (HAL) in accordance with the Memorandum of Understanding signed between Highways England and HAL in January 2018 to ensure that this impact is appropriately mitigated by HAL as the scheme promoter.

Highways England wishes to restate the importance of HAL including appropriate provision for future proofing of the SRN as part of the proposed Airport Expansion works. This particularly includes, but may not be limited to, locations where HAL's proposals will place a constraint to any further development in the future.

As has been made clear in previous Highways England correspondence with HAL and the CAA, this future proofing is vital to the efficient and resilient operation of the SRN. Its inclusion is consistent with our statutory obligations under our Licence from the Secretary of State; namely, providing effective stewardship of the long-term operation and integrity of the strategic road network, including carrying out future proofing in planning the long-term development and improvement of the network.

The need for future proofing only arises because of HAL's expansion proposals. Without future proofing, HAL's proposals would conflict with our ability to comply with our Licence by imposing a significantly greater constraint on our ability to add additional capacity to the network than currently exists. Highways England cannot acquiesce to proposals which would have this effect and breach our Licence obligations. The proposed works to the M25 in particular are essential core requirements of the proposed expansion project. These works must include future proofing, as should any surface access schemes elsewhere on the SRN required to allow expansion.

The provision of future proofing should be funded by HAL as promoter, developer and deliverer of the Heathrow Northwest Runway Scheme. This is consistent with the project being a private sector funded scheme, and with the position set out by the Secretary of State in the Airports National Policy Statement.

Highways England has reviewed the latest CAA consultation, particularly Chapter 4 which concerns Surface Access. Highways England welcomes the acknowledgement in paragraph 4.3 that the Airports National Policy Statement specifies “that any changes to the M25 motorway required for the construction of the third runway must include sufficient provision to accommodate flexibility and future proofing”.

Highways England notes the statement in Paragraph 4.7 that “regulatory allowances for any future proofing of the highways network should be strictly limited to initiatives that are supported by clear and compelling analysis.” Highways England has given HAL an initial view of the SRN future proofing requirements to inform their masterplan development. Highways England is working with HAL to review their traffic modelling methodology and will be reviewing the modelling outputs once they are received in 2019 to ensure they represent a robust assessment of future traffic flows on the SRN. In that regard, Highways England notes recognition in Paragraph 4.1 that “capacity expansion at Heathrow airport ... will generate significant additional demand from ... freight operators”. This analysis will be used to inform the final SRN future proofing requirements.

Paragraph 4.7 goes on to state that “This should demonstrate that airport users should bear only efficient costs of investment, and only where investment is:

- Essential for airport operation and/or necessary and appropriate;
- Consistent with our overall objectives of ensuring that capacity expansion is affordable and financeable.”

Highways England is concerned that it is not clear whether these tests include investment required by HAL to meet planning requirements for the construction and operation of Heathrow Airport expansion or where investment is required to ensure that Heathrow expansion does not place stakeholders in breach of their statutory obligations, e.g. Highways England’s Licence.

Highways England also notes the statement in Paragraph 4.35 that “we expect HAL to seek to agree with Highways England the most cost-effective solutions for the M25 motorway and to demonstrate that these provide value for money for consumers. This should include an assessment of a range of options, the development of future proofing only to the extent that it is justified by cost benefit analysis and evidence that cost estimates reflect only efficient levels of costs”. The works to the SRN, particularly the M25, are essential enabling works for the Heathrow Expansion Programme and as such it is the accountability of HAL as the scheme promotor to ensure costs are agreed with the CAA. However, Highways England, as a statutory authority, will support discussions with the CAA on the efficient design of the SRN scheme proposals, incorporating Highway’s England’s advice as the competent authority. The efficient design of the SRN proposals should consider both the disruption caused during construction activity and the ongoing impact on operation of the SRN beyond the opening of the development.

As stated in our 29 June response to the previous CAA consultation, for the avoidance of doubt, should HAL’s proposals fail to include Highways England’s future proofing requirements for the SRN, and confirmation that all of the works will be fully funded by HAL, we will ultimately not be able to support HAL’s DCO. We will require HAL to insert the necessary protective provisions into the DCO. We will continue to work with HAL to resolve this issue as soon as possible.

Highways England also notes that in Appendix D of the consultation – Surface Access policy, paragraph 6, bullet 3 states that “Where encouraging modal shift towards public transport is likely to be a planning requirement on the airport operator, evidence on the scope for generating surpluses from road schemes to co-fund public transport services should be presented”. Highways England would like to understand what is meant by the suggestion of road schemes subsidising public transport services to understand the potential impact on the SRN.

Highways England responded to HAL's non-statutory public consultation which closed on 28 March and we have been working through the issues identified with HAL to seek to resolve as many as possible ahead of HAL's Statutory Consultation in June 2019. In addition to future proofing, the key issues for Highways England include agreeing a clear understanding of the traffic impacts of Heathrow expansion and appropriate mitigation on the SRN to be funded by HAL. In that regard Highways England notes Paragraph 11 which emphasises the need for HAL to "demonstrate to stakeholders that its timetable is realistic, achievable and allows sufficient time for high quality engagement" to agree the SRN aspects of the proposals. Highways England also notes in Paragraph 4.22 that this must be informed by robust multi-modal traffic modelling which Highways England will review in line with its role as a statutory consultee to the planning process and in consideration of the provisions set out within DfT Circular 02/13.

Finally, it would be helpful if the CAA could confirm whether it envisages any implications of its proposed new licence condition (as in Paragraph 2.16) on the ability of HAL to enter into commercial agreements with statutory bodies. Specifically, this condition should not impinge Highways England's ability to satisfy its statutory or regulatory obligations.

Yours sincerely



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