

The Airspace Change Masterplan: Approach to Strategic Environmental Assessment and Habitats Regulations Assessment

Introduction

This report has been prepared by Browne Jacobson LLP for, and on behalf of, the Civil Aviation Authority (the CAA) for the purpose of explaining how the CAA will assess whether and how the Airspace Change Masterplan (the Masterplan) may significantly affect the environment, prior to its acceptance into the Airspace Modernisation Strategy.

Strategic environmental assessment (SEA)

1. The Environmental Assessment of Plans and Programmes Regulations 2004 require the environmental assessment of the Masterplan during its preparation and before its adoption. This process is known as strategic environmental assessment (SEA), and is intended to influence and inform the CAA about the Masterplan's environmental effects as it is developed. There are six main stages to the SEA process: -
 - A. Screening - to determine whether the Masterplan needs to be subject to SEA. We have already decided that it does.
 - B. Scoping - to determine the extent and coverage of the SEA.

The CAA is required to consult certain statutory "consultation bodies" over the scope of the environmental assessment of the Masterplan. These include organisations such as the Environment Agency, the Scottish Ministers, and Natural Resources Wales.

Although not legally required, the CAA has also decided to consult the public, to ensure that later iterations of the ACM and the CAA's consideration of its potential environmental impacts are informed by the widest possible range of views and expertise. Consultees are invited to comment on matters such as the environmental topics to be covered, the baseline information to be used, and the methodology to be followed in carrying out the environmental assessment. Consultation responses will be taken into account before the scope of the environmental assessment is finalised and the assessment is commenced.

- C. Carrying out the assessment - this involves gathering information and data; evaluating the environmental effects of the draft Masterplan as well as reasonable alternatives to it; and, if necessary, considering recommendations for changes to the Masterplan to mitigate significant effects on the environment.

This assessment will begin at an early stage and will be on-going throughout the development of iterations 3 and 4 of the Masterplan in respect of each geographical cluster. This assessment process will lead to the production of an environmental report, which will also include proposals for monitoring the effects of the Masterplan in the future. This environmental report for the Masterplan is separate from the environmental assessments of airspace change proposals (ACPs) that are being prepared by individual airports at a local level.

- D. Preparation of the draft environmental report - a draft environmental report will be prepared on each iteration 3 of the Masterplan in respect of each geographical cluster.

Production of the draft environmental report in respect of each geographical cluster will commence as soon as ACOG has submitted that iteration of the Masterplan to the CAA for acceptance into the Airspace Modernisation Strategy. Preparation of, and consultation on, the draft environmental report will be independent from the CAA's process for accepting each iteration 3 of the Masterplan into the Airspace Modernisation Strategy. This is because the final

Masterplan, with which the constituent ACPs must be consistent, is not produced and accepted into the Airspace Modernisation Strategy until iteration 4.

E. Consultation on the draft environmental report - Once a draft environmental report has been prepared, the CAA will publish it, together with iteration 3 of the Masterplan in respect of the geographical cluster that it relates to, for consultation with the statutory consultation bodies and the wider public.

F. Update the environmental report - the outputs from the environmental assessment of each iteration 3 - including the draft environmental report and the consultation responses received - will inform the development of iteration 4 of the Masterplan in respect of that geographical cluster.

If iteration 4 of the Masterplan contains substantial modifications (compared with iteration 3 in respect of that geographical cluster) that are likely to have significant environmental effects, then a further draft environmental report will be prepared and further consultation may be carried out.

The environmental report will then be finalised and taken into account when deciding whether to accept iteration 4 of the Masterplan in respect of that geographical cluster into the Airspace Modernisation Strategy. The final environmental report will be published with the iteration 4 of the Masterplan to which it relates, once that iteration been accepted. The environmental report will include proposals for monitoring the effects of the Masterplan in the future.

Habitats Regulations assessment (HRA)

2. The Conservation of Habitats and Species Regulations 2017 require the CAA to carry out a Habitats Regulations assessment (HRA) to determine whether the Masterplan may affect any European sites, or European offshore marine sites, i.e., the UK's most important habitats and the habitats of protected species, that are designated as such under the 2017 Regulations¹. The CAA may not accept iteration 4 of the Masterplan in respect of a geographical cluster into the Airspace Modernisation Strategy unless satisfied that all legal requirements with respect to HRA have been met, which in practice means that the Masterplan will not adversely affect the integrity of any European sites, or that there are no alternative solutions and the Masterplan must nevertheless be accepted for imperative reasons of overriding public interest. There are four main stages to a Habitats Regulations assessment: -

A. Screening - for likely significant effects on European sites.

We have already determined that likely significant effects cannot be ruled out at this stage, and that the Masterplan should proceed to the next stage of assessment. As the CAA is not proposing, at this stage, to exclude any likely significant effects from the requirements for further assessment, it is not necessary at this stage to consider the effects that the Masterplan could have on European sites when acting cumulatively with other plans and projects that may come forward over the same time period. However, a detailed assessment of these effects will be undertaken at the next stage of assessment.

The CAA is required to consult appropriate nature conservation bodies (i.e., the JNCC, Natural England, Natural Resources Wales, and NatureScot²) and to have regard to any representations made by them at the next stage of assessment. The CAA may also consult the wider public if it considers it appropriate, but is not required to do so.

¹ In England and Wales, European sites are special areas of conservation (SACs) and special protection areas (SPAs); together these make up the National Site Network. As a matter of Government policy, potential SACs, proposed SPAs, Ramsar sites (wetlands designated under the Ramsar Convention), proposed Ramsar sites and areas secured as compensation for damage to a SAC or SPA are also treated as European sites. In Scotland, European sites are SACs, SPAs, candidate SACs and Sites of Community Importance.

² The Masterplan does not currently affect airspace change in Northern Ireland.

The CAA has decided to consult both the nature conservation bodies and the public at the earliest possible opportunity, following completion of the screening stage, to ensure that later iterations of the Masterplan and the CAA's consideration of its potential environmental impacts are informed by the widest possible range of views and expertise. Consultees are invited to comment on matters such as the likely significant effects identified during the screening stage, the baseline information to be used, and the methodology to be followed in carrying out the appropriate assessment. The responses it receives from consultees will be taken into account before the appropriate assessment is commenced.

B. Appropriate assessment - to determine whether the Masterplan will adversely affect any European sites, by reference to their conservation objectives.

An appropriate assessment will be made of iteration 4 of the Masterplan in respect of each geographical cluster. An iteration 4 of the Masterplan in respect of a geographical cluster will not be accepted into the Airspace Modernisation Strategy until an appropriate assessment for that iteration has been completed, and the CAA is satisfied that it will not adversely affect the integrity of any European sites either alone or in-combination with other plans and projects, or that there are no alternative solutions and the Masterplan must nevertheless be accepted for imperative reasons of overriding public interest.

While formal assessment will not commence until iteration 4, activities to identify and understand potential adverse effects on the integrity of European sites will take place in parallel with the strategic environmental assessment (see above), for iteration 3 of the Masterplan in respect of each geographical cluster. This will inform the preparation of the environmental report, and is expected to result in some likely significant effects being excluded from the need for appropriate assessment.

A draft appropriate assessment on iteration 3 of the Masterplan in respect of a geographical cluster will be subjected to consultation with both the nature conservation bodies and the wider public prior to preparation of iteration 4 of the Masterplan in respect of that geographical cluster, to ensure that stakeholders' views are reflected in the final assessment and that as many adverse effects as possible are identified and assessed.

C. Mitigation - to avoid, eliminate or to reduce the effects of airspace change on European sites.

To the extent that mitigation of adverse effects arising from changes in the airspace design is required (e.g., by choosing alternative design options or modifying existing design options which avoid or reduce impacts on a European site) it will be delivered by individual airports and secured through the approval process for individual ACPs. This is because the adverse effects requiring mitigation can only be defined accurately once airports complete their detailed airspace designs at a local level. Mitigation measures will therefore be specific to each ACP project and are expected to be determined through a project-level HRA.

D. Imperative reasons of overriding public interest (IROPI) derogation - if it is not possible to rule out adverse effects on European sites following an appropriate assessment, the CAA will need to determine whether the Masterplan must nevertheless be accepted into the Airspace Modernisation Strategy for imperative reasons of overriding public interest because there are no alternative solutions which are financially, legally, and technically feasible and which would achieve the Masterplan's purpose and objectives.

The CAA will consult with statutory consultees before deciding whether the requirements for reliance on this derogation are met.

3. The overall approach to strategic environmental assessment and Habitats Regulations assessment of the Masterplan described above is summarised in Figure 1.

Figure 1 - SCHEMATIC REPRESENTATION OF THE SEA & HRA STAGES IN PARALLEL WITH THE PREPARATION OF ITERATIONS 3 AND 4 OF THE MASTERPLAN

(example schematic in respect of the first geographical cluster only)

March 2023

Masterplan	accept & publish it.2	it.3 v.1 preparatory work			drafting it.3 v.1	it.3 v.1 submitted for acceptance	it.3 v.1 acceptance decision & publication	it.4 v.1 preparatory work		review SEA & HRA consultation responses	drafting it.4 v.1	concluding SEA and HRA of it.4 v.1 prior to finalisation and submission	it.4 v.1 submitted for acceptance	it.4 v.1 acceptance decision & publication
	SEA	preparatory work	screening & scoping report	consult on screening & scoping report & approach	ongoing assessment: gather data; identify & evaluate potential effects, reasonable alternatives, mitigation & monitoring measures			draft environmental report	consult on draft environmental report	review SEA consultation responses	revise environmental report		publish environmental report	
HRA	preparatory work	screening report	consult on screening report & approach	ongoing assessment: identify and evaluate potential adverse effects on integrity of European sites			draft appropriate assessment	consult on draft appropriate assessment	review HRA consultation responses	appropriate assessment & consideration of IROPI derogation	consult statutory consultees over IROPI case (if required)		publish HRA	

Process now superseded by the UKACS (CAP 3220)