

Airspace Regulator (Coordination)
Airspace, ATM and Aerodromes
Safety and Airspace Regulation Group
CAA House
45-59 Kingsway
London WC2B 6TE

Devon and Somerset Gliding Club Ltd
North Hill Airfield
Sheldon
Honiton
Devon
EX14 4QW

11 February 2018

EXETER AIRSPACE CHANGE PROPOSAL

FAILURE OF ADHERENCE TO THE CONSULTATION PROCESS (CAP 725)

REFER ALSO TO DSGC LETTERS OF 8 JUNE AND 8 SEPTEMBER 2017

Devon and Somerset Gliding Club (DSGC) are submitting a complaint to CAA SARG, on the failure of Exeter and Devon Airport Ltd (EDAL) to adhere to the consultation process.

This document outlines the failings, and requests that the ACP is rejected:

- The ACP is incomplete - it relies on completion of Letters of Agreement to mitigate its effects
- Failure to comply with a key CAP725 requirement - ignoring alternative options
- Failure to respond to safety concerns within the submitted ACP
- Failure to meet design objectives
- Misrepresentations, Misleading statements and abuses of process

1. THE ACP IS INCOMPLETE - it relies on completion of Letters of Agreement to mitigate its effects

1.1 The ACP is reliant on the subsequent successful conclusion of a number of Letters of Agreement to ameliorate its effects for aviation stakeholders. As detailed in Appendix 2, initial consultations on the relevant points with DSGC have been far from satisfactory and did not reach acceptable conclusions. **This fails to meet the explicit requirement in CAP 725 Section 4.17.**

1.2 Moreover, Letters of Agreement are fundamentally unsatisfactory from a stakeholder viewpoint as they are, by their nature, not permanent and any review of access arrangements would be at the whim of the Controlling Authority at the time. **Letters of Agreement should not be necessary and have no place in a permanent airspace re-classification.**

2. FAILURE TO COMPLY WITH A KEY CAP 725 REQUIREMENT -ignoring alternative options

2.1 A central requirement of CAP725 is that *"The change sponsor must be prepared to respond to what it learns and make changes, even if this requires major modifications, if this is appropriate"*. **The test of reasonableness is thus whether there is a sufficient and properly justified response to alternative proposals by objectors.**

2.2 The Aviation Stakeholder Consultation Report indicates that:

- (a) significantly, 10 out of 12 NATMAC consultees who responded, objected to the proposals
- (b) NATS was unable to support the proposals and indicated a potential detriment to safety (neither fact is noted in the submitted ACP)
- (c) 94% of consultees opposed the proposals, only 3.5% of consultees were in support

2.3 From initial contact onwards, it became evident that EDAL was seriously considering only one 'solution' to its declared issue(s) – a blanket of Class D airspace – and that any alternative was given only token consideration.

2.4 There has not been a sufficient and properly justified response to the three principal alternatives put forward by DSGC – these are summarised in Appendix 1.

3. FAILURE TO RESPOND TO SAFETY CONCERNS WITHIN THE SUBMITTED PROPOSAL

3.1 Following the issue of the ACP consultation document 6 March 2017, and DSGC response 8 June 2017, DSGC received no immediate response to our safety concerns or alternative proposals.

3.2 Similarly, following the Local Engagement Meeting 14 August 2017, where a revised chart was presented, DSGC objected to the revised chart (now submitted in the ACP) in its letter to EDAL dated 8 September 2017. In light of the serious nature of the objections, it was reasonable to assume either a response or revised proposals would be forthcoming. No reply whatsoever has been received, and the ACP has now been submitted, so these safety concerns have been ignored. This is contrary to the requirement in CAP 725 Section 3.1 stating "*a Change Sponsor will be accountable for their decisions to either accommodate or disregard consultees' responses and for providing timely feedback to the consultees*". **These serious safety concerns in our letters remain unanswered in the ACP.**

4. FAILURE TO MEET DESIGN OBJECTIVES

Again, these have been dealt with in DSGC letter of 8 June 2017, so will be summarised here. The ACP 3.4.5. principal stated objectives have not been met:

1) "*Maintain the current level of safety*" - whilst attempting to improve safety in the proposed CAS, DSGC have highlighted a number of safety concerns that have been introduced for all other aviation users outside of the CAS.

2) "*To make the airspace more efficient for all users*" – again, attempting to improve efficiency for CAT in proposed CAS, is to the detriment of other airspace users.

3) "*To provide protection to public transport aircraft in the critical stages of flight prior to landing and after departure*" - this protection can be provided by using modern flight profiles covering a more compact area than proposed.

4) "*Provide the minimum volume of airspace to protect public transport aircraft*" – again, no thought has been given to using modern flight profiles for a more compact area.

5) "*Provide the maximum levels of access for all classes of suitably equipped aircraft*" - no consideration has been given for non-suitably equipped aircraft, and the funnelling effects and pinch points, potentially being introduced around the proposed CAS, thereby reducing safety margins for these aircraft.

5. MISREPRESENTATIONS, MISLEADING STATEMENTS AND ABUSES OF PROCESS

At the initial Framework Briefing with EDAL, the CAA emphasised the need for a collaborative approach with aviation stakeholders. The experience of DSGC has been the exact opposite: there has been an ongoing failure to understand and take seriously both gliding operations and DSGC's concerns. The feeling throughout has been of a complete unwillingness to consider any alternative to a major Class D construct. Additionally, as stated above, formal documents have included numerous misleading statements and misrepresentations of relevant facts, and the effects of the proposals. Examples are given in Appendix 2.

CONCLUSION

In light of the evidence set out here and in the DSGC responses of 8 June 2017 and 8 September 2017, the ACP consultation process was incomplete and unsatisfactory, and fails to meet the CAP725 process.

- The ACP would be reliant on Letters of Agreement that are not in place
- DSGC objections and alternative options have been ignored
- The actions of the change sponsor fail to pass the test of reasonableness
- Legitimate safety concerns in DSGC responses have not been mitigated
- DSGC have received no viable responses to their safety concerns
- There have been misrepresentations, misleading statements and abuses of process

DSGC request that CAA SARG reject this application from EDAL for Exeter Airport Airspace Change Proposal.

DSGC and other local aviation stakeholders are determined that the airport's conduct - and, as necessary, any effective endorsement of that conduct by processing/considering the application - will be subjected to judicial scrutiny.

DSGC is happy to discuss any of these points with CAA SARG, for clarification if required.

Jill Harmer
DSGC Secretary
for DSGC Management Committee

APPENDIX 1 – FAILURE TO RESPOND ADEQUATELY TO ALTERNATIVE PROPOSALS

In light of the very high level of objections to its proposals, there has been a failure by EDAL to give serious consideration to alternative airspace options. Three principal alternatives to the introduction of Class D airspace have been put forward in DSGC responses:

1. RMZ/RMA.

SARG's Policy Statement on the use of RMZs sets out a guiding principle in airspace design: *"..that the least restrictive categorisation of airspace should be the norm in UK airspace design, with more restrictive classifications only being established where necessary when the safety need is clearly demonstrated."* The safety need for this guiding principle to be discounted has not been clearly demonstrated within the ACP.

The ACP completely misrepresents the position of the BGA and DSGC who have proposed an RMZ. Two almost identical statements are made in ACP Paragraphs 3.4.2 and 4.7 that the imposition of an RMZ would not be seen favourably by the gliding community. **DSGC object to this interpretation as it is neither BGA or DSGC clearly stated position.**

2. Use of new technology

If CAS were to be justified, both the BGA and DSGC have proposed that an updated methodology be used in determining its dimensions which would substantially reduce its size and impact. The change sponsor has failed to give any response whatsoever to this proposal, or any reason for dismissing it

In this context, it is relevant to note that CAP 1561, the CAA's response to the DfT consultation paper on Reforming Policy on the Design and Use of UK Airspace, includes the statement (under the heading 'Airspace Modernisation') that *"New technology offers the opportunity for aircraft to fly more precise routes, which presents the potential for clear benefits"*. EDAL has failed to even consider the benefits of new technology when operating alongside other long-established aviation stakeholders with legitimate requirements. **This is unreasonable and unacceptable.**

3. Flexible Use of Airspace

At the Local Engagement Meeting 14 August, DSGC proposed an alternative option of Flexible Use of Airspace. DSGC (on request) have provided EDAL with operational regulations for using flexible airspace around Innsbruck in Austria. DSGC believes this is the most viable option to achieve EDAL's objective, mitigate our safety concerns and would not adversely affect local aviation users. All proposed northern sectors of Class D could be returned to Class G during agreed periods daily, after activation in advance by telephone by DSGC, or in flight by radio for transit aircraft. Exeter ATIS could relay the airspace classification. **EDAL have discounted this option out of hand citing misleading and erroneous reasons which simultaneously misunderstand both the proposals put forward and gliding operations.** It is therefore clear that only the most superficial consideration was given to this proposal, as the content of the document supplied is not reflected in the response.

APPENDIX 2 – EXAMPLES OF MISREPRESENTATIONS, MISLEADING STATEMENTS AND ABUSE OF PROCESS

The following points are cited to provide substantiation for the dissatisfaction of DSGC with the consultation process.

- At initial meetings with DSGC, Exeter's Consultants stated that in view of the 'essential need', there was no alternative to Class D overhead and surrounding North Hill. In trying to rescue something from the situation, a Glider Box was tentatively discussed. It was understood that further discussions would take place. **To the surprise of DSGC, and without the anticipated further consultation, the Glider Box concept was included in the ACP public consultation document.**
- In the **Aviation Stakeholder Consultation Document of March 2017**, there were numerous significant misrepresentations of facts and of the effects of its proposals. These were highlighted in the DSGC Response of 8 June 2017 within Section 4.0. **All criticisms remain valid and should be referred to, as they have been perpetuated into the ACP.**
- **Feedback to Consultees during the consultation period.** It was the experience of many DSGC members who made individual objections that they either received no reply, or that the reply received was clearly a 'copy and paste' reply of paragraphs from a generic response, **and did not address their particular concerns.** While DSGC has some sympathy for EDAL in dealing with the sheer number of objections, this falls short of the aim of CAP 725 Section 3.1 mentioned earlier.
- **The publication of the Aviation Stakeholder Consultation Report on 26 July was not notified to Consultees.** This is contrary to Section 6.4 of the Code of Practice on Consultation which states *"Those who have participated in a consultation exercise should normally be alerted to the publication of this information"*. A simple email to all in the Consultee list with a link to a webpage for the Consultation Report would have been sufficient. Instead, the BGA learned of the publication in a telephone conference on 11 August, and alerted DSGC.
- **Revised chart** Subsequent to EDAL's decision to offer some amendment of the CAS design by raising the bases of some CTAs, EDAL invited DSGC to a 'Local Engagement Meeting' on 14 August. DSGC received an emailed copy of the chart two days before, **giving little time to assimilate the implications and consult within DSGC** before the meeting took place. The revised chart with minor height modifications that was presented at the 'Local Engagement Meeting', **was not circulated to all Local Aviation Stakeholders** who had previously been consulted. and were similarly affected.
- **Local engagement meeting.** At the DSGC meeting on 14 August, EDAL initially again expressed unwillingness to consider any alternative to Class D airspace. However, after representations from DSGC and BGA, EDAL agreed to talk to the CAA about the possibility of Flexible Use of Airspace. see Annex 1
- **Misleading statements in the ACP** Throughout the whole ACP process there have been many instances of misleading statements perpetuated through the documentation. "whilst causing minimal disruption to aviation stakeholders" and "A collaborative approach with local airspace operators" and "persistent ATC intervention". However the ACP has failed to point out that half of the airproxes have occurred within existing controlled airspace, (by conveniently selecting a restricted dataset).