

# CAA assessment of the criteria for call in by the Secretary of State of London Oxford Airport's July 2020 airspace change proposal

CAP 1970

A large, abstract graphic composed of overlapping, semi-transparent blue shapes in various shades, ranging from light cyan to deep navy blue, filling the bottom two-thirds of the page.

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Civil Aviation Authority  
Aviation House  
Beehive Ring Road  
Crawley  
West Sussex  
RH6 0YR

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Enquiries regarding the content of this publication should be addressed to: [basak.macit@caa.co.uk](mailto:basak.macit@caa.co.uk)

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# Contents

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<b>Contents</b>	<b>3</b>
<b>Chapter 1</b>	<b>4</b>
Background	4
Introduction	4
Relevant Directions and Guidance	5
<b>Chapter 2</b>	<b>9</b>
CAA's assessment of the call-in criteria	9
Exceptions	9
Of strategic national importance	10
A significant impact (positive or negative) on the economic growth of the United Kingdom	11
A change in noise distribution and an identified adverse impact on health and quality of life	12
Any volume of airspace classified as Class G being reclassified as Class A, C, D or E	13
<b>Chapter 3</b>	<b>16</b>
CAA's overall assessment	16

## Chapter 1

# Background

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## Introduction

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- 1.1 On 23<sup>rd</sup> July 2020, London Oxford Airport (LOA) submitted an airspace change proposal to the CAA (“London Oxford ACP, Proposal for Revised Airspace and Instrument Flight Procedures”<sup>1</sup>, ACP reference ACP-2014-03), proposing the introduction of new PBN arrival procedures and restructure of the local airspace to protect the most critical stages of these procedures (hereafter called the “LOA Proposal”). On 8 September 2020, the CAA received a request for the airspace change decision to be called in by the Secretary of State<sup>2</sup>. No further updates to the airspace change proposal were submitted to the CAA before the deadline for call-in requests of 8 September 2020 and so the CAA’s assessment will be made against the details of the proposal submitted on 23 July 2020 (hereafter called the “LOA Proposal”).
- 1.2 The Civil Aviation Authority (Air Navigation) Directions 2017 (as amended) (“**the 2017 Directions**”) Direction 6(1A) require the CAA to provide an assessment of whether the CAA considers the proposal meets one of more of the call-in criteria set out in Direction 6. Direction 6(1B) requires the CAA to take account of any guidance the Secretary of State has given to the CAA when doing so. This report represents the CAA’s assessment of the call-in criteria as they apply to the LOA Proposal, and will be provided to the Secretary of State (SofS) to inform his decision whether he has a discretion to exercise to call-in the proposal for decision by himself rather than the CAA.
- 1.3 The remainder of this chapter outlines the relevant Directions and Guidance given to the CAA. Chapter 2 sets out the CAA’s assessment of each of the call-in criteria and Chapter 3 gives the CAA’s overall assessment of whether any of the call-in criteria are met such that a discretion for the SofS to call in the LOA Proposal arises.

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<sup>1</sup> Available on the CAA website at <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Decisions/London-Oxford-Airport-Airspace-Change-Proposal/>.

<sup>2</sup> Available on the CAA website on the same webpage.

## Relevant Directions and Guidance

- 1.4 The 2017 Directions contain the primary definition of the call-in criteria and the exceptions which the CAA must consider in this assessment.
- (5) For the purposes of this direction, the “call-in criteria” are that the proposed change—
- (a) is of strategic national importance,
  - (b) could have a significant impact (positive or negative) on the economic growth of the United Kingdom, ~~or~~
  - (c) could both lead to a change in noise distribution resulting in a 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life, ~~or~~
  - (d) could lead to any volume of airspace classified as Class G being reclassified as Class A, C, D or E.
- (6) This direction does not to *[sic]* apply to a proposal which is—
- (a) submitted by, or on behalf of, the MoD,
  - (b) directly related to a planning decision which had already been determined by the Secretary of State,
  - (c) directly related to a planning decision made by another planning authority which involved detailed consideration of changes to flight paths in UK airspace, consequential on the proposed development, which the sponsor has taken into account when developing its proposal, or
  - (d) submitted to the CAA for approval before the coming into force of these Directions.
- 1.5 The Secretary of State’s Air Navigation Guidance 2017, providing guidance to the CAA on its environmental objectives when carrying out its air navigation functions and to the CAA and wider industry on airspace and noise management 2017, published in October 2017, states that.
- 6.7 In accordance with the call-in criteria as set out in the Air Navigation Directions 2017, the CAA must require that the sponsor assesses whether the anticipated noise impact of its proposals will meet the relevant call-in criterion and provide that assessment to the SofS to enable the expected noise impact to be checked and determined by the SofS.
- 1.6 The statutory guidance (version 1.2, dated October 2019<sup>3</sup>) which the 2017 Directions require the CAA takes into account when undertaking a call-in assessment is hereafter referred to as “the Guidance” and is set out below:

<sup>3</sup> Available on the CAA website at

[https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard\\_Content/Commercial\\_industry/Airspace/Airspace\\_change/191031%20Guidance%20to%20the%20Civil%20Aviation%20Authority%20on%20call%20in.pdf](https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Commercial_industry/Airspace/Airspace_change/191031%20Guidance%20to%20the%20Civil%20Aviation%20Authority%20on%20call%20in.pdf)

**Call-in criterion (a) – Strategic national importance**

10. The proposal would be of strategic national importance if it supports or conflicts with the delivery of national policy to the extent that the approval or rejection of the proposal will impact the **overall** delivery of one or more of the following government policies only:

- I. **an Airports National Policy Statement (NPS)**, for example, if the CAA considers that a proposed airspace change could prevent the successful delivery of on-going or future airspace changes that could increase future capacity as agreed in that NPS;
- II. **maintaining UK national security**, for example, a proposal that the CAA has been advised by the Ministry of Defence or another government department might have a national security impact on the operations of a site of critical national infrastructure, such as a nuclear installation or prison;
- III. **the UK's Industrial Strategy as it relates to space ports**, but only where a proposal establishes the airspace needed for operations from the first space ports designed for sub-orbital use and vertical launchers, and which therefore sets the precedent for future design and airspace change decisions;
- IV. **airspace zones specifically linked to the UK policy on the safe use of drones in the UK**, but only in respect of the first proposal to establish the airspace needed for the use of drones commercially (i.e. excluding testing) and which therefore sets the precedent for future design and airspace change decisions.

11. The DfT will notify the CAA at the point it no longer needs to take one or more of the bullet points in paragraph 10 into account.

**Call-in criterion (b) – Could have a significant impact (positive or negative) on the economic growth of the United Kingdom**

12. A proposal would have such an impact if it were directly linked to a plan to increase capacity at an airport or airports by more than 10 million passengers a year.<sup>2</sup> This is the passenger threshold used for an airport to be classed as a Nationally Significant Infrastructure Project.

<sup>2</sup> This will only apply where the SofS has not already reviewed the change through a planning procedure, as per exception II(a)

**Call-in criterion (c) – Could both lead to a change in noise distribution resulting in a 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life**

13. To enable this criterion to be assessed, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes either (a) an assessment of whether the 54 dB LAeq 16hr test set out in criterion c is met, based on satisfactory noise modelling, or (b) where agreed with the CAA, other satisfactory evidence demonstrating that the anticipated change in noise impacts will not meet this criterion.
14. The Air Navigation Guidance 2017 (section 6.7) states that “the CAA must require that the sponsor assesses whether the anticipated noise impact of its proposals will meet the relevant call-in criterion and provide that assessment to the SofS to enable the expected noise impact to be checked and determined by the SofS.” This assessment must be made for all proposals submitted to the CAA for decision after 1 January 2018<sup>3</sup>, including those that are being considered under CAP 725 and against the Air Navigation Guidance 2014.
15. This criterion<sup>4</sup> concerns proposals that have both “a change in noise distribution ... **and** ... an identified adverse impact on health and quality of life”. For the purposes of this assessment, the CAA should consider whether any proposal leading to the specified change in noise distribution in criterion (c) will consequently have “an identified adverse impact on health and quality of life” and therefore will meet this criterion.

**Call-in criterion (d) – Could lead to any volume of airspace classified as Class G being reclassified as Class A, C, D or E**

16. A proposal would meet this criterion if it desired to reclassify a portion of Class G airspace into either Class A, C, D or E. To help with the determination of such proposals, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes full details on: (a) what engagement it has undertaken with airspace users who may be affected; and (b) the actions it is proposing to mitigate any concerns which may have been raised during this engagement.

<sup>3</sup> Direction 6(6)(d)  
<sup>4</sup> Direction 6(5)(c)

## Exceptions

17. Direction 6(6) specifies the following exceptions from the call-in process:

I. **a proposal which is submitted by, or on behalf of, the Ministry of Defence (MoD)**. This would include a proposal jointly submitted with a civilian sponsor;

II. **a proposal directly related to a planning decision:**

a. which has already been determined by the SofS; or

b. made by another planning authority which involved detailed consideration of changes to flight paths in UK airspace, consequential on the proposed development, which the sponsor has taken into account when developing its proposal.

18. In the case of a proposal that is subject to an exception under paragraph 16 *[sic]* above, the CAA is requested to provide its views as to why the exception applies and no detailed assessment of the call-in criteria against the proposal is required.



## Chapter 2

## CAA's assessment of the call-in criteria

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- 2.1 In this chapter, the CAA sets out its assessment of the various call-in criteria as they pertain to the LOA airspace change proposal.
- 2.2 It must first be ascertained whether the airspace change falls into any of the exception categories from 2017 Directions, Direction 6(6), since if it does then – irrespective of other considerations – no detailed assessment of the other call-in criteria needs to be made. If the proposal does not appear to be an exception, then it must be assessed against the four call-in criteria from 2017 Directions, Direction 6(5).

### Exceptions

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- 2.3 Direction 6(6) states the conditions under which a proposal is exempted from call in. The proposal is exempted if it is:
- Submitted by, or on behalf of, the MoD,
  - Directly related to a planning decision which had already been determined by the Secretary of State, or
  - Directly related to a planning decision made by another planning authority which involved detailed consideration of changes made to flight paths in UK airspace, consequential on the proposed development, which the sponsor has taken into account when developing its proposal, or
- 2.4 **Submitted by, or on behalf of, the MoD:** the LOA Proposal was submitted by LOA Ltd, and makes no mention of the proposed changes being made jointly with or on behalf of the MoD. Therefore, the CAA's assessment is that this exception is not met.
- 2.5 **Directly related to a planning decision already determined by SofS:** the CAA is not aware of any planning decision already determined by the SofS to which the LOA Proposal is directly related. Nor is there any mention of such in the LOA Proposal. Therefore, the CAA's assessment is that this exception is not met.
- 2.6 **Directly related to a relevant planning decision by another authority:** the CAA is not aware of any planning decision already determined by any other body to which the LOA Proposal is directly related in the manner specified. Nor is there any mention of such in the LOA Proposal. Therefore, the CAA's assessment is that this exception is not met.

2.7 From the analysis above, the LOA Proposal does not meet any of the conditions required to be an exception. The CAA has therefore considered each of the call-in criteria set out in the Directions 5(5).

2.8 The following sections will examine each of these criteria in turn.

## Of strategic national importance

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2.9 Direction 6(5)(a) states that an airspace change proposal shall meet one of the call-in criteria if it is of strategic national importance.

2.10 The Guidance provided to the CAA states that a proposal would be of strategic national importance if it supports or conflicts with the delivery of national policy to the extent that the approval or rejection of the proposal will impact the overall delivery of one or more of the following government policies only:

- an Airports National Policy Statement (NPS)
- maintaining UK national security
- the UK's Industrial Strategy as it relates to space ports
- airspace zones specifically linked to the UK policy on the safe use of drones in the UK

2.11 **An Airports NPS:** The Government's only Airports NPS was formally designated by the Secretary of State on 26 June 2018. In 2019 the Court of Appeal determined that the ANPS is of no legal effect unless and until the Secretary of State decides to conduct a review. To date the Secretary of State has not done so. The Court of Appeal judgment is subject to an appeal to the Supreme Court by Heathrow Airport Limited. Paragraph 1.12 of the Airports NPS<sup>4</sup> states, "The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England." The purpose of the proposed airspace change is stated by LOA to be, as set out above, the introduction of new PBN arrival procedures and restructure of the local airspace to protect the most critical stages of these procedures. It does not relate to increased capacity in the South-East of the UK and therefore, the CAA's assessment is that the approval or rejection of the proposal will **not**

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<sup>4</sup> 'Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England', June 2018

[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](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)

impact the overall delivery of this national policy and therefore this condition is not met.

- 2.12 **Maintaining UK national security:** the CAA has not been advised by the Ministry of Defence or any other government department that the LOA Proposal might have a national security impact on the operations of a site of critical national infrastructure. Nor is there any mention of such in the LOA Proposal. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.
- 2.13 **Space ports:** the LOA Proposal makes no mention of the proposed changes being made in relation to space ports, nor does it appear to the CAA to be related to this. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.
- 2.14 **Airspace zones for safe use of drones:** the LOA Proposal makes no mention of the proposed changes being made in relation to use of drones, nor does it appear to the CAA to be related to this. Therefore, the CAA's assessment is that the approval or rejection of the proposal will **not** impact the overall delivery of this national policy and therefore this condition is not met.
- 2.15 Since the CAA's assessment is that none of the above conditions have been met by the LOA Proposal, our assessment is that the strategic national importance criterion is not met.

## **A significant impact (positive or negative) on the economic growth of the United Kingdom**

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- 2.16 Direction 6(5)(b) states that an airspace change proposal shall meet one of the call-in criteria if it could have a significant impact (positive or negative) on the economic growth of the UK.
- 2.17 The Guidance provided to the CAA states that a proposal would have such an impact if it were directly linked to a plan to increase capacity at an airport or airports by more than 10 million passengers a year.
- 2.18 The LOA Proposal does not mention that it is associated with any increase in passengers served by the airport. It is stated in the LOA Proposal that the proposal is not driven by an intent to increase the number of aircraft movements at LOA but PBN approaches will enable safer airspace and hence it is expected to be attractive to commercial operators which is intended to maintain a high standard of safety for the future usage of LOA.

- 2.19 The LOA Proposal shows between 2,500 and 4,500 Business Aviation flights per year at LOA between 2012 and 2018, with all other flights being for training or private aviation. CAA Airport Statistics for LOA in 2019 show 260 air taxi movements, 2,848 Business Aviation movements and the remaining 42,918 movements mostly Test and Training or Private Flights. Only six UK Airports in 2019 served more than 10 million passengers according to CAA airport statistics.
- 2.20 Therefore, it seems highly unlikely to the CAA that the LOA Proposal will be directly linked to an increase in capacity of more than 10 million passengers per annum. Therefore, the CAA's assessment is that this criterion is not met.

## **A change in noise distribution and an identified adverse impact on health and quality of life**

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- 2.21 Direction 6(5)(c) states that an airspace change proposal shall meet one of the call-in criteria if it could both lead to a change in noise distribution resulting in 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr and have an identified adverse impact on health and quality of life.
- 2.22 The Guidance provided to the CAA states that to enable this criterion to be assessed, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes either (a) an assessment of whether the 54 dB LAeq 16hr test set out in criterion c is met, based on satisfactory noise modelling, or (b) where agreed with the CAA, other satisfactory evidence demonstrating that the anticipated change in noise impacts will not meet this criterion.
- 2.23 The LOA Proposal (Proposal for Revised Airspace and Instrument Flight Procedures<sup>5</sup>) indicates that the noise contours were based on LOA traffic data for the 92-day summer period (16<sup>th</sup> June – 15<sup>th</sup> September 2016, 0700-2300 local time) for aircraft utilising the longest runway available at the Airport and noise contours were calculated by the FAA Aviation Environment Design Tool (AEDT). Aircraft details were input into AEDT and a comparative aircraft model was used for the aircraft models not contained in the AEDT database. The sponsor has not modelled any Sound Exposure Level (SEL) footprints due to the closure of the aerodrome between 2300 and 0700; LOA does not have any night flights. The CAA has concluded that the adopted noise modelling is satisfactory and in line with the CAP 725 process. According to the noise modelling results, there are 550 residents within the current 54 dB LAeq 16hr noise contour. The

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<sup>5</sup> Available on the CAA website at

[https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard\\_Content/Commercial\\_industry/Airspace/Airspace\\_change/70893%20038%20LOA%20ACP%20Submission%20Issue%201%20-%20REDACTED.pdf](https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Commercial_industry/Airspace/Airspace_change/70893%20038%20LOA%20ACP%20Submission%20Issue%201%20-%20REDACTED.pdf)

modelling results were represented in the submission with the below table to show the populations and households within the contours.

LAeq (dBA)	Population	Households
>54	550	200
>57	400	150
>60	250	100
>63	150	50
>66	<50	<50
>69	<50	<50
>72	<50	<50

Source: London Oxford Airport ACP – Economic and Environmental Impact

- 2.24 The LOA Proposal states that it is not intended to introduce a change in existing traffic levels or change the type of aircraft operating at the Airport. The nature of the proposed change is unlikely to alter noise exposure, exposing new people to noise levels of more than 54dB LAeq 16hr. Therefore, the CAA concludes that the proposed change would not lead to 10,000 net increase in the number of people subjected to a noise level of at least 54 dB LAeq 16hr, and there is no requirement to assess whether the airspace change proposal has an identified adverse impact on health and quality of life. Therefore, the CAA's assessment is that this criterion is not met.

## **Any volume of airspace classified as Class G being reclassified as Class A, C, D or E**

- 2.25 Direction 6(5)(d) states that an airspace change proposal shall meet one of the call-in criteria if it could lead to any volume of airspace classified as Class G being reclassified as Class A, C, D or E.
- 2.26 The Guidance provided to the CAA states that a proposal would meet this criterion if it desired to reclassify a portion of Class G airspace into either Class A, C, D or E. To help with the determination of such proposals, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes full details on: (a) what engagement it has undertaken with airspace users who may be affected; and (b) the actions it is proposing to mitigate any concerns which may have been raised during this engagement.
- 2.27 The LOA Proposal indicates that, during the formal consultation process, much of the discussion focussed upon the comparison between Class D airspace and a combined Radio Mandatory Zone (RMZ)/Transponder Mandatory Zone (TMZ). However, the general view from consultees was that only one of an RMZ or TMZ

should apply and that would be preferable to the creation of Class D airspace. Hence, the ACP was further revised so that the LOA proposal being put forward to the CAA is for the introduction of a TMZ only and does not require the creation of any Class D or other controlled airspace. Therefore, the CAA's assessment is that this criterion is not met.

- 2.28 The engagement and consultation strategy is explained in detail in the LOA Proposal in Section 4 of the Proposal for Revised Airspace and Instrument Flight Procedures<sup>6</sup> and LOA also published the details of the strategy on the CAA's website<sup>7</sup>, which included links to the sponsor's original controlled airspace ACP consultation material (consultation document and consultation feedback report).
- 2.29 The LOA Proposal states the change sponsor conducted the consultation in accordance with the principles set out in the Cabinet Office Code of Practice on Consultation and aviation consultees included the MOD, airlines, aircraft operators, adjacent aerodromes, local airspace users and the national bodies representing all UK aviation interests who may be affected by the proposed changes such as British Gliding Association (BGA), British Microlight Aircraft Association, British Parachute Association, British Rotorcraft Association, Defence Airspace and Air Traffic Management, General Aviation Alliance, NATS etc. The LOA Proposal also states that local authorities at Parish, District and County level were consulted.
- 2.30 The LOA Proposal states that the majority of organisations above objected to the Class D airspace proposal for a variety of reasons but supported the consideration of other possible airspace design solutions such as RMZ, TMZ or RMZ/TMZ alternative. Many objections were also received from individuals, primarily from the GA community. The reasons for consultees' objections are summarised in Section 4.6 of the LOA Proposal.
- 2.31 Following the stakeholder consultation feedback, the airspace design was modified to mitigate stakeholder's concerns and LOA considered other possible airspace design options that minimise the impact on adjacent aviation communities. LOA then conducted a subsequent stakeholder engagement and liaison in November 2019, which provided opinion that the Class D and Class E plus TMZ solution met neither the requirements of other airspace users nor enabled LOA to meet objectives of this ACP. As a result of the subsequent consultation feedback, LOA focussed more on the comparison between Class D

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<sup>6</sup> Available on the CAA website at <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Decisions/London-Oxford-Airport-Airspace-Change-Proposal/>

<sup>7</sup> Available on the CAA website at <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Decisions/London-Oxford-Airport-Airspace-Change-Proposal/>

airspace and a combined RMZ/TMZ. The general view from consultees was that only one of an RMZ or TMZ should be viable and would be preferable to Class D. Therefore, the airspace was further revised resulting in a TMZ solution which became the final proposed design in the LOA Proposal.

Chapter 3

## CAA's overall assessment

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- 3.1 The CAA has assessed the LOA Proposal against the call-in criteria in the Directions, taking account of the DfT's Guidance, and found that it does not meet any of the exceptions in the 2017 Directions, and also does not meet any of the call-in criteria. Therefore, the CAA's overall assessment is that in accordance with the terms of Directions and taking into account the Guidance, a discretion for the Secretary of State to call in the LOA Proposal for decision by himself rather than the CAA does not arise.
- 3.2 In accordance with the terms of the Directions, it is a decision for the Secretary of State whether he agrees with the CAA's assessment and conclusions, or whether he agrees with the CAA's conclusion but for different reasons or whether he reaches a different conclusion.