



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

SCOPING OPINION

Proposed Manston Airport

August 2016

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EXECUTIVE SUMMARY

This is the Scoping Opinion (the Opinion) provided by the Secretary of State in respect of the content of the Environmental Statement for Manston Airport, Thanet, Kent.

This report sets out the Secretary of State's opinion on the basis of the information provided in Riveroak Investment Corporation LLC's report entitled 'Manston Airport DCO Scoping Report, June 2016' ('the Scoping Report'). This Opinion can only reflect the proposals as currently described by the Applicant.

The Secretary of State has consulted on the Scoping Report and the responses received have been taken into account in adopting this Opinion. The Secretary of State is satisfied that the topic areas identified in the Scoping Report encompass those matters identified in Schedule 4, Part 1, paragraph 19 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) ('the EIA Regulations').

The Secretary of State draws attention both to the general points and those made in respect of each of the specialist topic areas in this Opinion. The main potential issues identified are:

- effects on internationally designated sites;
- effects on ground and surface water;
- noise and vibration effects;
- landscape and visual effects during operation; and
- traffic and transport effects arising from construction activity, in particular from material importation and exportation and from operational traffic associated with passenger and freight vehicle movements.

Matters are not scoped out unless specifically addressed and justified by the Applicant, and confirmed as being scoped out by the Secretary of State.

The Secretary of State notes the potential need to carry out an assessment under The Conservation of Habitats and Species Regulations 2010 (as amended) ('the Habitats Regulations').

1 INTRODUCTION

Background

- 1.1 On 30 June 2016, the Secretary of State received the Scoping Report submitted by Riveroak Investment Corporation LLC ('the Applicant') under Regulation 8 of the EIA Regulations in order to request a scoping opinion for the proposed Manston Airport ('the proposed development'). This Opinion is made in response to this request and should be read in conjunction with the Applicant's Scoping Report.
- 1.2 In submitting the request for a scoping opinion on the content and scope of the EIA, the Applicant is deemed to have notified the Secretary of State under Regulation 6(1)(b) of the EIA Regulations that they propose to provide an environmental statement (ES) in respect of the proposed development. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the proposed development is determined to be EIA development.
- 1.3 The EIA Regulations enable an applicant, before making an application for an order granting development consent, to ask the Secretary of State to state in writing their formal opinion (a 'scoping opinion') on the information to be provided in the ES.
- 1.4 Before adopting a scoping opinion the Secretary of State must take into account:
- (a) *the specific characteristics of the particular development;*
 - (b) *the specific characteristics of the development of the type concerned; and*
 - (c) *environmental features likely to be affected by the development'.*
- (EIA Regulation 8 (9))*
- 1.5 This Opinion sets out what information the Secretary of State considers should be included in the ES for the proposed development. The Opinion has taken account of:
- the EIA Regulations;
 - the nature and scale of the proposed development;
 - the nature of the receiving environment; and
 - current best practice in the preparation of an ES.
- 1.6 The Secretary of State has also taken account of the responses received from the statutory consultees (see Appendix 3 of this Opinion). The matters addressed by the Applicant have been carefully considered and use has been made of professional judgement and experience in order to adopt this Opinion. It should be noted that

when it comes to consider the ES, the Secretary of State will take account of relevant legislation and guidelines. The Secretary of State will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with the application for a development consent order (DCO).

- 1.7 This Opinion should not be construed as implying that the Secretary of State agrees with the information or comments provided by the Applicant in their request for an opinion from the Secretary of State. In particular, comments from the Secretary of State in this Opinion are without prejudice to any decision taken by the Secretary of State (on submission of the application) that any development identified by the Applicant is necessarily to be treated as part of a nationally significant infrastructure project (NSIP), or associated development, or development that does not require development consent.
- 1.8 Regulation 8(3) of the EIA Regulations states that a request for a scoping opinion must include:
- (a) a plan sufficient to identify the land;*
 - (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and*
 - (c) such other information or representations as the person making the request may wish to provide or make.*
- (EIA Regulation 8 (3))*
- 1.9 The Secretary of State considers that this has been provided in the Applicant's Scoping Report.

The Secretary of State's Consultation

- 1.10 The Secretary of State has a duty under Regulation 8(6) of the EIA Regulations to consult widely before adopting a scoping opinion. A list of the bodies that were consulted is provided at Appendix 2. A list has also been compiled by the Secretary of State under their duty to notify the consultation bodies in accordance with Regulation 9(1)(a). The Applicant should note that whilst the Secretary of State's list can inform their consultation, it should not be relied upon for that purpose.
- 1.11 The list of respondents who replied within the statutory timeframe and whose comments have been taken into account in the preparation of this Opinion is provided, along with copies of their comments, at Appendix 3, to which the Applicant should refer in undertaking the EIA.
- 1.12 The ES submitted by the Applicant should demonstrate consideration of the points raised by the consultation bodies. It is recommended that a table is provided in the ES summarising the scoping responses

from the consultation bodies and how they are, or are not, addressed in the ES.

- 1.13 Any consultation responses received after the statutory deadline for receipt of comments will not be taken into account within this Opinion. Late responses will be forwarded to the Applicant and will be made available on the Planning Inspectorate's website. The Applicant should also give due consideration to those comments in carrying out the EIA.

Structure of the Document

- 1.14 This Opinion is structured as follows:

- **Section 1** – Introduction
- **Section 2** – The proposed development
- **Section 3** – EIA approach and topic areas
- **Section 4** – Other information

- 1.15 It is accompanied by the following appendices:

- **Appendix 1** – Presentation of the Environmental Statement
- **Appendix 2** – List of bodies formally consulted
- **Appendix 3** – Respondents to consultation and copies of replies

2 THE PROPOSED DEVELOPMENT

Introduction

- 2.1 The following is a summary of the information on the proposed development and its site and surroundings prepared by the Applicant and included in their Scoping Report. The information has not been verified and it has been assumed that the information provided reflects the existing knowledge of the proposed development and the potential receptors/resources.

The Applicant's Information

Overview of the proposed development

- 2.2 The proposed development is to enable the re-opening of Manston Airport in Thanet, Kent, as an air freight and cargo facility, for at least 10,000 air transport movements of cargo aircraft per year, together with facilities for other aviation-related development, such as: an aircraft maintenance repair and overhaul facility (MRO); an aircraft recycling facility; a flight training school; some passenger operations; and the allocation of land for other aviation-related businesses.
- 2.3 The proposed development site contains existing infrastructure related to its former uses, some of which would be retained and utilised, some permanently removed, and some replaced with similar infrastructure. The Scoping Report identifies the following potential elements of the proposed development:
- 'rehabilitation works' to an existing east-west aligned runway ('Runway 10/28'), 2748m long and 230m wide, in the south of the site;
 - modifications to the existing taxiway network in the south of the site, which would include a new taxiway parallel to the existing runway, new taxiways linking the aircraft aprons and stands, and modifications to existing taxiways;
 - two new aprons on an area of approximately 208,000m² between the runway and Manston Road (B2050) (which crosses the site north of the runway), to provide parking for up to 18 aircraft;
 - 'slot drains' in the aprons to collect surface water runoff;
 - 25m high mast lights located around the aprons;
 - relocation of the existing cargo facilities located in the north east of the site; and new airside cargo facilities, a car park and storage areas immediately to the north of the new aprons, which would require the regrading of the land in that area. The new cargo facility buildings would be 15m high on an area of approximately 66,000m², and the storage and parking area would be approximately 120,000m²;

- retention and use of the existing passenger terminal building and aircraft apron for 'limited' passenger services, including sufficient space for up to four additional aircraft stands if required;
- replacement of the existing MRO facility with a new MRO facility;
- retention of the existing air traffic control (ATC) building located immediately to the north of the runway, and replacement of all navigational aid equipment that has been removed;
- a new radar facility to replace, in its existing location, the existing radar tower in the north west of the site;
- retention of a safeguarding zone around the airport radar tower, the size of which would be dependent on the type and specifications of the radar;
- a new airside fuel farm facility, to include above-ground and bunded fuel tanks;
- warehousing, hangars, offices and airport-related business units to the north of Manston Road. The business units would be of various sizes and layouts and have a total floorspace of approximately 1,400,000m²;
- relocation of the two existing museums on the site (the Royal Air Force (RAF) Manston Museum and the Spitfire and Hurricane Memorial Museum) to a new 'museum area';
- conversion of an old ATC tower, located east of the museums, to a café and observation area;
- additional internal substations;
- communication networks;
- foul and surface water connections, which would include interception, attenuation (winter and summer ponds) and pollution control facilities; and could include Sustainable Drainage Systems (SuDS), use of the existing connections to the public drainage system, or use of an existing permitted water discharge to Pegwell Bay;
- creation of a new access to the site from Spitfire Way (B2190), west of the existing access;
- landscaping between the new internal access road and Spitfire Way; and
- improvements to the existing junction of Manston Road and Spitfire Way.

2.4 The above elements are identified in figures contained in Appendix C of the Scoping Report. Figure 1.3 identifies the existing site infrastructure; Figure 2.1 shows the proposed zoning plan for the site; Figures 2.2 – 2.4 shows the proposed general arrangement of the whole site, the cargo area and the passenger area, respectively;

Figure 2.5 shows the proposed highway improvements; and Figure 2.7 shows the outline drainage layout.

Description of the site and surrounding area

The Application Site

- 2.5 The proposed application site is on the existing site of Manston Airport, west of Manston and north east of Minster. Margate lies to the north, Ramsgate to the east, and Sandwich Bay to the south east. The northern part of the site is bisected by the B2050 (Manston Road), and the site is bounded by the A299 dual carriageway to the south and the B2190 (Spitfire Way) to the west. The existing site access is from the junction of the B2050 with the B2190. A site location plan is provided at Figure 1.1 (Appendix C).
- 2.6 The airport provided a variety of airport-related services from 1916 until it ceased operation in May 2014. It operated as RAF Manston until 1998, and was also a base for the United States Air Force for a period in the 1950s. From 1998 it operated as a private commercial airport with a range of services including scheduled passenger flights, charter flights, air freight and cargo, a flight training school, flight crew training and aircraft testing. More recently it operated as a specialist air freight and cargo hub. Much of the airport infrastructure, including one runway, taxiways, aprons, cargo facilities, and a passenger terminal, remains.
- 2.7 The site is comprised of a combination of existing buildings and hardstanding, large expanses of grassland, and some limited areas of scrub and/or landscaping. The existing buildings along the east and western edges of the site are shown on Figure 1.3 (Appendix C) and comprise:
- a cargo handling facility comprising two storage warehouses 6 - 8m high, and one hanger 12m high, all finished with metal cladding, on an area of 5,200m², with a gated entrance and a security box;
 - a 12m high fire station building, constructed of brick and with a corrugated metal roof, on an area of 2,200m²;
 - a helicopter pilot training facility comprising two 10m high hangers with metal cladding, on an area of 950m²;
 - two 5m high museum buildings of brick construction, on an area of 2,000m²;
 - a 4m high terminal building, on an area of 2,400m²;
 - a 6m high ground traffic building, including a 9m high viewing tower, on an area of 700m²;

- a 12m high airplane maintenance hangar, with a taller 16m high movable section to enclose an airplane tail fin, on an area of 4,700m²; and
 - a fuel farm.
- 2.8 A network of hard surfacing, used for taxiways, aprons, passenger car parking, and roads, connect the buildings to the runway and to the two main airport entrance points that are located in the east and west. The buildings and facilities are generally surrounded by closely mown grassland. Other landscape planting is limited to lines of ornamental trees and shrubs along some sections of the boundary such as the B2190, around some buildings, and in car parking areas on the eastern edge. Post and wire security fencing of varying height runs alongside most of the airport perimeter.
- 2.9 There are archaeological remains on the site from the prehistoric, roman and medieval periods onwards.
- 2.10 The proposed development site is entirely in Flood Zone 1. It is underlain by the Kent Isle of Thanet Chalk principal aquifer, and is within the Lord of the Manor groundwater Source Protection Zone (SPZ), and a Nitrate Vulnerable Zone (NVZ). The Scoping Report states that there is an existing discharge consent relating to the site, for discharge of run-off from the runway and apron areas to Pegwell Bay. There are no water abstraction points on the site, or rivers on or adjacent to the site.

The Surrounding Area

- 2.11 The site is located within National Landscape Character Area (LCA) 113: North Kent Plain, which covers a 90km long strip of land bordering the Thames Estuary to the north and the chalk of the Kent Downs to the south. It is also contained within the Thanet LCA, which includes a centrally domed ridge on the crest of which the airport is dominant. The area is generally characterised by gently undulating topography, openness and extensive views, and arable uses. There are no nationally or locally designated landscapes within 5km of the site boundary.
- 2.12 Inland areas, including those close to the airport, are described as generally characterised by a moderate density of villages, small groups of residential properties, and individual properties. The coastal area between Pegwell to the south-east and Birchington to the north-west comprises urban and residential development focused upon the main towns of Ramsgate, Broadstairs, North Foreland and Margate. Sandwich Bay and Pegwell Bay are approximately 1.5km to the south east. Ramsgate town centre is approximately 3.8km east of the runway on the site. The nearest residential area to the west is St Nicolas Wade, 6km away. Cliffsend is less than 300m metres southeast of the runway and the A299, the main access route to the

airport. Manston village, through which the B2050 runs, is to the north of the site. A number of houses are located less than 300m away from the main hangar area of the site. The land directly to the south-west of the site is classified as Grade 2 and Grade 3a agricultural land; the site itself is not classed as agricultural land. There are a number of campsites, equestrian centres and beaches within 5km of the site.

- 2.13 There is a relatively dense network of 'A', 'B' and minor roads in the area, and a moderate density of public rights of way (PROWs) in the area around the airport. These include long-distance walking routes such as the Saxon Shore Way and the Turner and Dickens Walk; and the Viking Way (National Cycle Route 15), a long-distance cycling route. These routes are highlighted on Figure 10.3 in Appendix C. The Ramsgate-Minster railway line is 1.5 kilometres south of the airport.
- 2.14 The boundary of the site abuts the boundary of the Thanet Urban Area Air Quality Management Area (AQMA).
- 2.15 There are eight internationally designated nature conservation sites within 10km of the proposed development site, the four closest of which are 925m away to the south east. These comprise two Special Protection Areas (SPAs), three Special Areas of Conservation (SACs), one Site of Community Importance (SCI), and one Ramsar site.
- 2.16 There are six nationally designated conservation sites within 10km of the proposed development site, comprised of four SSSIs, the closest of which, Sandwich Bay to Hacklinge Marshes, is 925m away to the south east; and two National Nature Reserves: Sandwich and Pegwell Bay, 925m to the south west; and Stodmarsh, 7700m to the south west.
- 2.17 There are two Scheduled Monuments (SMs) within approximately 1km of the site boundary: the Anglo-Saxon Cemetery south of Ozengell Grange, and an enclosure and ring ditches 180m east north east of Minster Laundry; and a further three SMs within 2km.
- 2.18 Within 1km of the site boundary there are 21 grade II listed buildings, and two grade II* listed buildings: Wayborough Manor and Cleve Court; and Cleve Lodge. The Acol and Minster Conservation Area lies within 2km of the site boundary.
- 2.19 There are numerous archaeological sites from multiple periods within a 500m radius of the site, including prehistoric and roman remains in the area immediately to the south of the site. There are also remains from World War One, World War Two, the Cold War, and the RAF Manston airfield.
- 2.20 There are a series of water channels and streams that form part of the Minster Marshes over 1km to the south of the site. The Marshes

drain into the River Stour, 3km south of the site, which flows east and into Sandwich Bay and Pegwell Bay. There are a number of reservoirs within 3km of the site, including an uncovered reservoir 0.3km from the southern boundary of the site, a covered reservoir approximately 0.5km north of the site, and some small uncovered reservoirs approximately 1.5km or more from the westernmost boundary of the site. There are a number of other small water features, such as ponds, located within 3km of the site.

- 2.21 There are six water abstraction points from groundwater or ponds/lakes located within 500m of the site boundary and three further abstraction points within 1km of the boundary. The Lord of the Manor public water supply (PWS) borehole, which extracts water from the SPZ which underlies the site, is the closest borehole to the site at approximately 400m to the east. There are ten permitted water discharges up to 500m from the site boundary, and a further nine located up to 1km from the boundary.

Alternatives

- 2.22 Section 2.2 of the Scoping Report states that in preparing the ES for the proposed development, consideration will be given to the 'do nothing' scenario; differently scaled air cargo operations at Manston Airport; and strategic alternatives to Manston Airport. No further details are provided.

Proposed access

- 2.23 Vehicular access to the site is proposed from the B2190 to the north of the site, west of the existing access. Highway improvements are also proposed to the junction of the B2190 and the B2050, to the north of the existing site. These are shown on Figure 2.5 in Appendix C.

Construction

- 2.24 Section 2.4 of the Scoping Report indicates that the proposed development would be constructed in phases, during the first of which the 'essential' existing airport equipment and infrastructure would be maintained and/or the new infrastructure would be installed. It is stated that this phase is likely to last between 6 – 12 months, and that the remaining phases of the proposed development would be constructed '...in accordance with the emerging and developing business case for the airport'.
- 2.25 A construction programme has not been provided in the Scoping Report. It is stated that the phased development would be likely to be comprised of the following stages:
- relocation of existing facilities that are currently located within the new development area;

- installation of new airside infrastructure (relocation of 'Taxiway Alpha' and a new fuel farm);
- provision of new site access;
- upgrading of site services (electricity, surface water drainage and treatment);
- improvement of community facilities (museums and café/observation centre);
- development, in phases, of new aircraft stands, aprons and cargo facilities as required; and
- development of the 'Northern Grass' area (in the northwest of the site) for aviation-related businesses.

2.26 The Scoping Report states that the ES will provide details of the construction programme, including construction activities, and the method and anticipated duration of works, and that an outline Construction Environmental Management Plan (CEMP) would be appended to the ES providing details of specific mitigation measures required to reduce the construction-related impacts (Scoping Report paragraph 5.17).

Operation and maintenance

2.27 It is estimated in the Scoping Report that the proposed development could handle 500,000 - 600,000 tonnes of air freight by 2035, and that, depending on the type of freight and the fleet-mix operating from the airport, 500,000 tonnes would equate to 10,000 - 20,000 air traffic movements per year.

2.28 It is stated that details of the types of aircraft that will operate, the flight timings (including the spread of flights per day or week) and the types of cargo (which will dictate the type of freight handling facilities) are not fully known at this stage, so no further information on these matters is provided in the Scoping Report.

2.29 The operating hours are described in the Scoping Report as 'normal office hours Monday to Friday' for the 'core airport' staff, with 'essential' management staff working 'weekends and holidays'. Air traffic control, firefighting, border control, security and other essential services would be maintained 24 hours/day.

Decommissioning

2.30 The decommissioning of the proposed development has not been considered in the Scoping Report. It is stated in Section 4.2 that this is on the basis that the airport would be operational long into the future and that therefore decommissioning will not be required.

The Secretary of State's Comments

Description of the application site and surrounding area

- 2.31 Limited information on the site and surroundings is provided in Chapter 2, which describes the proposed development; more detailed information is found within the topic chapters. In addition to detailed baseline information to be provided within topic-specific chapters of the ES, the Secretary of State would expect the ES to include a discrete section that describes the site and surroundings. This would identify the context of the proposed development and any relevant designations and sensitive receptors. This section should identify land that could be directly or indirectly affected by the proposed development and any associated auxiliary facilities, landscaping areas and potential off-site mitigation or compensation schemes.
- 2.32 There are some apparent discrepancies/omissions between information in the body of the Scoping Report and the plans, so that it is not clear which existing elements on the site are to be removed, retained or replaced. For instance, reference is made in Section 10.5 to an existing fire station, a helicopter pilot training facility, and a ground traffic building including a viewing tower, however none of these elements are identified on Figure 1.3, which shows the existing site infrastructure. An alternative location for the Fire and Rescue Service is identified on Figures 2.1, 2.2 and 2.3, yet this is not mentioned in the Report. Figures 2.2 and 2.3 identify an existing building to be retained to the north of the B2190 and B2050 junction, which appears to be outside the site boundary, but do not identify what it is.
- 2.33 The overview baseline description lacks reference to certain areas of settlement local to Manston airport that could be sensitive to proposed airport development, including properties in the northern part of Minster, off Alland Grange Lane, Woodchurch and immediately north of Spitfire Way.

Description of the proposed development

- 2.34 The Applicant should ensure that the description of the proposed development for which an application is made is as accurate and firm as possible, as this will form the basis of the EIA. It is understood that at this stage in the evolution of the proposed development its description may not be confirmed. The Applicant should be aware however, that the description of the development in the ES must be sufficiently certain to meet the requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations and that there should therefore be more certainty by the time the ES is submitted with the draft DCO (dDCO).
- 2.35 It is stated in Section 2.3 that the intention is that the airport would be able to handle 500,000-600,000 tonnes of air freight/year and

over 10,000 air traffic movements of freight cargo/year, and also that 500,000 tonnes of air freight would generate 10,000 to 20,000 air traffic movements per year. The project description identifies that scheduled passenger flights are also proposed, although no further information is provided in relation to estimates of numbers. The description of the proposed development in the ES should identify the maximum parameters for air freight weight and the number of air traffic movements for both air freight and passengers, on which the assessments will be based, which must be the same as those provided for in the dDCO.

- 2.36 Limited information is provided in the Scoping Report in relation to a number of elements of the proposed development, and the Secretary of State expects that more detailed information on these would be provided in the ES. These are discussed below.
- 2.37 It is stated that the existing runway would be retained and is likely to need works to improve its condition; new taxiways and modifications to existing taxiways would be required; and the airport would be able to accommodate parking for up to 18 aircraft (Section 2.3.5), including what are described as larger types of aircraft, classified as Codes E and F. However, no further details of these elements are provided, such as for instance aircraft types. All of the figures which identify aircraft parking areas show stands for 19 aircraft. In addition to identifying 19 stands specifically for Code E aircraft, Figure 2.3 shows optional arrangements of 24 stands for Code D aircraft, and 6 stands for Code F aircraft. The anticipated capacity of the airport, and therefore the basis for the assessments is inconsistent.
- 2.38 Scoping Report paragraph 2.3.7 notes that the passenger facilities on the site will include sufficient space for up to four additional aircraft stands if required. The number of stands required for either cargo and passenger aircraft are not specified but will need to be clearly indicated in the ES and dDCO.
- 2.39 Reference is made to 25m high mast lights that would be located around the aprons; the height should be expressed as a maximum and the number and location of all of the mast lights should be identified in the ES and included on accompanying figures, together with details of anticipated night time lighting requirements.
- 2.40 Paragraph 2.3.9 states that a new airside fuel farm is proposed and refers to Figure 2.2 (Appendix C); however, that figure identifies the location only of an existing (onsite) fuel farm, and no further details of the proposed fuel farm are provided in the Scoping Report. Chapter 9 paragraph 9.6.4 refers to an offsite 'current' fuel farm and a potential onsite tank farm, and paragraph 9.6.9 refers to planned tank farms. It is unclear whether all these references describe the same element of the proposed development. Paragraph 9.6.4 also refers to other elements onsite which are not referenced elsewhere in

the Scoping Report, such as car garages, infilled chalk pits and infilling activities.

- 2.41 It is stated in paragraph 2.3.10 that an existing permitted water discharge to Pegwell Bay may be utilised for the proposed development. The Applicant's attention is drawn to the comments of the EA, contained in Appendix 3 of this Opinion, in this regard, in which they note that this permit lapsed upon dissolution of the previous operators of the site, and that a new environmental permit would need to be sought by any new site operators. The Applicant is referred to the advice contained in Appendix 1 of this Opinion about other regulatory regimes, and the need to provide information in the ES about relevant permits/licences which the Applicant will need to obtain.
- 2.42 Paragraph 2.3.10 makes reference to additional services that would be required on the site such as, for instance, internal substations, communication networks, and foul and surface water connections but provides no further details.
- 2.43 Figure 2.4 (Appendix C) identifies 826 new car parking spaces, and an extension to the existing airport terminal; however, only limited reference is made to these elements in the Scoping Report e.g. in Section 10.5, rather than in the project description. The ES should clearly describe all development components since these comprise the basis for the assessment.
- 2.44 Scoping Report paragraph 2.3.6 notes that existing cargo facilities located in the north east of the site will be relocated and that new cargo facilities will be constructed. It is not clear whether it is proposed that the existing facilities will be demolished. It should be made explicit in the ES which elements of the existing infrastructure on the site would be demolished, for which removal of waste material would be required, and which would be retained and refurbished.
- 2.45 Reference is made in Section 2 to aircraft, cargo, and passenger aprons, and it is not clear if aircraft and cargo aprons are different elements or describe the same element. References are variously made in Chapter 11 to Runway 10/28, Runway 28, and Runways 10 and 28, although it is understood that there is only one runway on the site. The Applicant should ensure that the terminology used in the ES is clear and consistent throughout.
- 2.46 It is stated in paragraph 2.3.12 that the two existing museums on the site will remain and be located in a 'new museum area'. Based on the description provided, it is not clear whether the existing museums will be dismantled and rebuilt, or demolished and new buildings constructed. This should be explained in the ES.
- 2.47 Paragraph 2.3.13 states that it is proposed to provide multiple business units of various sizes and layouts with an approximate total

floor space of 1,400,000m², and that the DCO application will include proposals based on 'outline design parameters'. The assessments in the ES must be based on the maximum parameters of the proposed development, which must also be reflected in the DCO. The Applicant is referred to the information provided in Appendix 1 of this Opinion.

- 2.48 Not all of the acronyms used in the figures in Appendix C are explained in the figure legend, text or glossary of the Scoping Report, such as, for example, 'NDB', 'DME', and 'VDF' on Figure 2.2. All abbreviations and acronyms used in the ES should be explained.
- 2.49 No reference is made in the Scoping Report to whether any elements of the proposed development would be 'associated development'. When submitting a dDCO, the Applicant should clearly define which elements of the proposed development are integral to the NSIP and which are associated development under the Planning Act 2008 (PA 2008) or an ancillary matter. Associated development is defined in the Planning Act as development which is associated with the principal development. Any proposed works and/or infrastructure identified as associated development, or as ancillary to the proposed development, (whether on or off-site) should be assessed as part of an integrated approach to environmental assessment. Guidance on associated development can be found in the DCLG publication 'Planning Act 2008: Guidance on associated development applications for major infrastructure projects'.
- 2.50 The Secretary of State recommends that the ES should include a clear description of all aspects of the proposed development, at the construction, operation and decommissioning stages, and include:
- land use requirements;
 - site preparation;
 - construction processes and methods;
 - transport routes;
 - operational requirements including the nature and quantity of materials used, as well as waste arisings and their disposal;
 - maintenance activities, including consideration of any potential environmental impacts; and
 - emissions - water, air and soil pollution, noise, vibration, light, heat, and radiation.
- 2.51 There is no information in the Scoping Report about how waste generated by the proposed development during the construction, operation, and decommissioning stages would be dealt with, or how it will be addressed in the ES. The ES will need to consider the environmental effects of the storage, processing and removal of all waste types from the site, and identify and describe the proposed

control processes and mitigation, including in relation to transporting waste offsite. All waste types should be quantified and classified.

Flexibility

- 2.52 The Secretary of State notes that limited information has been provided in the Scoping Report on the description of the proposed development and its components. The Applicant's attention is drawn to the Planning Inspectorate's Advice Note 9 'Using the 'Rochdale Envelope'', which is available on the Planning Inspectorate's website, and to the 'Flexibility' section in Appendix 1 of this Opinion which provides additional details on the recommended approach.
- 2.53 The Applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the scheme have yet to be finalised and provide the reasons. At the time of application, any proposed scheme parameters should not be so wide-ranging as to represent effectively different schemes. The scheme parameters will need to be clearly defined in the dDCO and therefore in the accompanying ES. It is a matter for the Applicant, in preparing an ES, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. The description of the proposed development in the ES must not be so wide that it is insufficiently certain to comply with the requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations.
- 2.54 It should be noted that if the proposed development changes substantially during the EIA process prior to submission of the application the Applicant may wish to consider requesting a new scoping opinion.

Proposed access

- 2.55 Limited information is provided in Scoping Report paragraph 2.3.11 in relation to access to the site. The outline in paragraph 2.4.2 of the likely phasing of the stages of the proposed development suggests that a new site location access would be provided after existing facilities have been relocated and new infrastructure has been installed, so it is not clear how the site would be accessed during the initial construction period.

Alternatives

- 2.56 The EIA Regulations require that the Applicant provide 'An outline of the main alternatives studied by the Applicant and an indication of the main reasons for the Applicant's choice, taking into account the environmental effects' (see Appendix 1). Three alternatives to the proposed development are identified in Scoping Report Section 2.2, and it is stated that consideration will be given to these in preparing the ES. No further information on alternatives is provided. The

Secretary of State would expect to see a discrete section in the ES that provides details of the alternatives considered and the reasoning for selection of the preferred option(s). The Applicant is referred to Appendix 1 of this Opinion for further advice on this point.

Construction

- 2.57 Limited information is included in the Scoping Report on the construction phase(s) of the proposed development. Section 2.4 suggests that construction will take place over a number of phases and refers to an initial phase in which 'essential' airport equipment and infrastructure will be maintained or installed, and identifies potential activities that would be carried out at different stages. However, it is unclear which of these would fall within the initial phase and which would be undertaken in subsequent phases.
- 2.58 Reference to the construction phase is also made in Section 4.4 in relation to the consideration of cumulative effects. It is indicated, assuming a DCO is granted, that construction would likely commence in mid-2018 with an initial period of 6-12 months of activity to prepare the airport for reopening, followed by further phased developments over the next 6-18 months. It is then suggested that the operational phase would likely commence following the construction phase at the end of 2018.
- 2.59 The Applicant should ensure that the phasing of the proposed development, and the activities which would be undertaken in each phase, are clearly explained in the ES, and consistently reflected in the topic assessments. These should be based on worst case assumptions about the duration of the construction phases, and include consideration of the potential effects of construction activities occurring in conjunction with the operational activities of the airport.
- 2.60 In addition, the first bullet point of paragraph 2.4.2 refers to the relocation of existing facilities that are located within the new development area, and the second bullet point refers to the relocation of 'taxiway alpha'. It is not explained if these activities would involve the demolition and complete removal of existing infrastructure.
- 2.61 The Secretary of State notes that no information has been provided in the Scoping Report about the size and location of construction compounds. Whilst it is appreciated that this information may not be available at this stage in the evolution of the proposed development, the Applicant is reminded that this information will be required and that such compounds should be included within the site red line boundary.
- 2.62 Site clearance and preparation, levelling and demolition activities and methods should be described in the ES. It is not stated in the Scoping Report whether there will be any need for piling during

construction. If piling is to be utilised, potential impacts will need to be considered in the assessments.

- 2.63 The Secretary of State advises that comprehensive information on construction should be provided in the ES, including: the phasing programme; construction methods and activities associated with each phase; numbers of workers and the hours of working; types of plant and machinery; siting of construction compounds (on and off site); lighting equipment/requirements; number, type, movements and parking of construction vehicles (both heavy goods vehicles (HGVs) and staff vehicles); noise; and any CEMP.

Operation and maintenance

- 2.64 Limited information is included in the Scoping Report on the operational phase of the proposed development. Reference is made in Section 2.5 to the staff operating hours as 'normal' office hours and 'weekends and holidays', and no further details are provided. The Secretary of State notes and welcomes the intention to provide with the DCO application full details of the types of aircraft that will operate, the timings of the flights, and the types of cargo, and to use that information for the assessments. The information provided in the ES should also cover but not be limited to such matters as: the number of full/part-time jobs; the operational hours and, if appropriate, shift patterns of the staff; the number and types of vehicle movements generated during the operational phase; and maintenance activities. Details of the proposed operational environmental management plan should be provided, including consideration of any electro-magnetic field effects arising from the proposed development.
- 2.65 The Applicant should demonstrate the resilience of the operational airport to predicted changes in climatic factors such as increased temperatures, rainfall and changes in wind patterns.

Decommissioning

- 2.66 The Secretary of State notes the statement in Scoping Report paragraph 4.2.2 that there is no need to consider decommissioning. The Secretary of State acknowledges that the further into the future any assessment of decommissioning is made, the less reliance may be placed on the outcome, however it cannot be ruled out that the need to decommission the development could occur during its lifetime. Consequently, the Secretary of State does not agree to this approach. The Applicant's attention is also drawn to the comments of Thanet District Council (TDC) in this regard.
- 2.67 The purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption. The Secretary of State recommends that the

EIA covers the life span of the proposed development and that the process and methods of decommissioning are considered and presented in the ES.

3 EIA APPROACH AND TOPIC AREAS

Introduction

- 3.1 This section contains the Secretary of State's specific comments on the approach to the ES and topic areas as set out in the Scoping Report. General advice on the presentation of an ES is provided at Appendix 1 of this Opinion and should be read in conjunction with this Section.

EU Directive 2014/52/EU

- 3.2 The Secretary of State draws the Applicant's attention to EU Directive 2014/52/EU (amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment), which was made in April 2014.
- 3.3 Under the terms of the 2014/52/EU Directive, Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 16 May 2017.
- 3.4 Whilst transitional provisions will apply to such new regulations, the Applicant is advised to consider the effect of the implementation of the revised Directive in terms of the production and content of the ES.
- 3.5 On 23 June 2016, the UK held a referendum and voted to leave the European Union. There is no immediate change to infrastructure legislation or policy. Relevant EU Directives have been transposed into UK law and those are unchanged until amended by Parliament.

National Policy Statements (NPSs)

- 3.6 Sector-specific NPSs are produced by the relevant Government Departments and set out national policy for NSIPs. They provide the framework within which the Examining Authority (ExA) will make their recommendations to the Secretary of State and include the Government's objectives for the development of NSIPs.
- 3.7 At present there is no designated NPS relevant to the airports sector. The Secretary of State must have regard to any matter that the Secretary of State thinks is important and relevant to the Secretary of State's decision. This could include extant and emerging policies at both the national and local level.

Environmental Statement Approach

- 3.8 The Scoping Report contains limited detail and evidence on which to base this Opinion, for example in relation to the nature of the proposed development, the baseline information gathered to-date,

the approach to be taken to assessing environmental impacts and proposed mitigation measures. This has constrained the Secretary of State's ability to comment in detail on the scope of the assessment.

- 3.9 The list of legislative requirements in Scoping Report paragraph 7.2.2 makes reference to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and paragraph 10.2.3 refers to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The regulations relevant to NSIPs are The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI No 2263) as amended. Care should be taken to ensure that the relevant legislation is applied in undertaking the EIA and that it is correctly referenced in the ES. The Secretary of State draws the attention of the Applicant to the need to take account of any updates to legislation and to liaise with the local planning authorities to ensure that the most up-to-date policy documents are used in the EIA. In this regard the Applicant's attention is drawn to the comments of Kent County Council (KCC) in relation to relevant local policy documents.
- 3.10 The Secretary of State notes that some information in the Scoping Report is contained within grey boxes, often setting out definitions or criteria; however, it is not clear whether they contain quoted text from other sources such as published guidance, or represent the Applicant's opinion. It should be made clear and the sources identified in the ES where published guidance and advice is relied on and where independent judgement is applied.
- 3.11 The Secretary of State notes that it is stated in Section 4.3 that the site and surrounding area have been viewed from PRowS and highways, but that the assessment of the baseline conditions within the technical chapters has been desk-based as a result of limited access to the site. The submitted ES must be based on robust baseline data, including, where relevant, site walkover, surveys and investigations.
- 3.12 The Secretary of State recommends that the physical scope of the study areas should be identified for each of the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified. The Secretary of State recommends that the Applicant undertakes appropriate consultation with the relevant consultees in order to agree wherever possible the methodology, timing and scope of surveys. Where this is not possible it should be stated clearly in the ES and a reasoned justification given. It is noted that the Applicant has met with relevant consultees, however it is unclear at

this stage whether any of the topic-based methodologies have been agreed.

- 3.13 Assessments should be based on a robust and consistent set of worst case assumptions regarding the duration, phasing and type of construction activity to be undertaken, and on a clear description of operational activity.
- 3.14 The Secretary of State welcomes the reference in Section 4.4 of the Scoping Report to the use of relevant guidance, such as the Planning Inspectorate's Advice Note 17 (AN17): Cumulative Effects Assessment (CEA). However, paragraph 4.4.9 describes the 'proposed developments' listed in Appendix B and shown on Figure 4.1 of the Scoping Report as those which have not yet been consented but 'are considered likely to proceed', which is not consistent with the advice in AN17 (and reflected in Box 4.3 of Scoping Report Section 4.4) about developments that should be considered in a CEA.
- 3.15 In addition, the status of some of the applications included in the list is not clear. For instance, Id 40 is shown as Tier 1 but refused permission; Id 47 and 48 (and others) are only shown as 'decided' rather than either 'permitted or 'refused'; Id 56, 57 and 58 are shown as Tier 1 but withdrawn; Id 67 and 68 appear to relate to the same application; and Id 84 identifies a scoping opinion but its status is described as 'decided'.
- 3.16 It is also unclear whether the CEA Zones of Influence (ZOIs) have been agreed with relevant stakeholders, as paragraph 4.4.7 states that draft ZOIs have been established for each topic and will be agreed with stakeholders, while paragraph 4.4.9 refers to the CEA ZOI study area as agreed. It is recommended that the Applicant agrees with relevant consultees the ZOIs and the list of developments to be considered. The Applicant's attention is drawn to TDC's comments, contained in Appendix 3, about the extent of the ZOIs for both the air quality and the ecological assessments.
- 3.17 The Applicant should ensure that the approach to undertaking the CEA is consistent with relevant guidance and good practice, and is fully explained in the ES, and that the information provided is accurate.
- 3.18 The explanation in paragraphs 4.4.2 and 4.4.3 of the Applicant's approach to assessing combined effects is unclear, and suggests that only significant effects will be considered in such an assessment. The Secretary of State considers that potential effects on a single receptor that individually are not significant could combine to result in a significant combined effect.

- 3.19 The Secretary of State recommends that in order to assist the decision-making process, the Applicant may wish to consider the use of tables:
- (a) to identify and collate the residual impacts after mitigation on the basis of specialist topics, inter-relationships and cumulative impacts;
 - (b) to demonstrate how the assessment has taken account of this Opinion and other responses to consultation;
 - (c) to set out the mitigation measures proposed. As well as assisting the reader, the Secretary of State considers that this would also enable the Applicant to cross-refer mitigation measures proposed in the ES to specific provisions proposed to be included within the dDCO; and
 - (d) to identify where details in the HRA report (where one is provided), such as descriptions of European sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.
- 3.20 The ES should not be a series of separate reports collated into one document, but rather a comprehensive assessment drawing together the environmental impacts of the proposed development. This is particularly important when considering impacts in terms of any permutations or parameters of the proposed development.

Environmental Statement Structure

- 3.21 Section 15 of the Scoping Report, 'Outline Structure of the ES', sets out the proposed structure of the ES and notes that it is anticipated that it will be comprised of the following:
- Non-Technical Summary
 - Volume 1: Full text of the EIA
 - Volume 2: Technical Appendices
- 3.22 It is stated that the chapter headings in Volume 2 of the ES will be as follows:
- 1. Introduction
 - 2. Project need and alternatives studied
 - 3. Project description
 - 4. Approach to preparing the ES
 - 5. Policy overview
 - 6. Air quality
 - 7. Biodiversity
 - 8. Ground and surface water

- 9. Historic environment
- 10. Land quality
- 11. Landscape and visual
- 12. Noise
- 13. Socio-economic
- 14. Traffic and transport
- 15. Combined and Cumulative effects
- 15. Summary of predicted effects

3.23 The Secretary of State notes that the proposed ES topic chapter headings reflect the same topics as covered in the Scoping Report. No reference is made to which document will contain the ES supporting figures. It is assumed that the last chapter heading, 'Summary of predicted effects', should refer to Chapter 16 rather than Chapter 15.

3.24 Some of the text in the Scoping Report, such as in the various tables and boxes, and on the figures in Appendix C, is small scale and difficult to read both on the paper and electronic copies. The Applicant is reminded that the ES should be clear and accessible to readers.

Matters to be Scoped In/Out

3.25 Matters must not be scoped out unless specifically addressed and justified by the Applicant, and confirmed as being scoped out by the Secretary of State.

3.26 The Applicant has identified in the topic chapters, and summarised in Table 14.1 of Chapter 14 of the Scoping Report, matters that are proposed to be scoped out. These are discussed below. It is noted that the description of scoped out matters differs between the individual chapters and the summary list provided in Chapter 14, for example, the land quality effects proposed to be scoped out are more extensive in Chapter 14 than in the topic chapter.

3.27 Whilst the Secretary of State has not agreed to scope out certain matters on the basis of the information available at this time, this does not prevent the Applicant from subsequently agreeing with the relevant consultees to scope matters out of the ES, where further evidence is provided to justify this approach. This should be explained fully in the ES.

3.28 Where a topic is scoped out, either by agreement with the Secretary of State in this Scoping Opinion, or with the relevant consultees at a later time, the ES should still justify and evidence the approach taken in order to demonstrate that topics have not simply been overlooked. This should include, where relevant, reference to how the delivery of

measures proposed to prevent/minimise adverse effects are secured through DCO requirements and whether relevant consultees agree on the adequacy of the measures proposed.

Decommissioning

- 3.29 It is proposed that effects as a result of the decommissioning phase of the airport can be scoped out because the airport will be operational long into the future, as highlighted in Section 2.64 above. The Secretary of State does not consider that sufficient justification to scope out decommissioning has been provided and advises that the potential effects of decommissioning must be assessed in the ES.

Air Quality

- 3.30 It is proposed that the following air quality effects are scoped out:
- assessment of pollutants such as sulphur dioxide (SO₂), carbon monoxide (CO) and volatile organic compounds (VOCs);
 - assessment of effects on workplace locations; and
 - odour assessment.
- 3.31 It is proposed to scope out effects from pollutants such as SO₂, CO and VOCs on the basis of low background concentrations and low emission rates. The Secretary of State does not agree to scope this out. There is a lack of detailed justification to support scoping out of these pollutants based on the geographical distribution of likely pollutant sources, e.g. engine ground runs, relative to sensitive receptors and therefore the likelihood of short or long term exposure and exceedence of the relevant air quality objective.
- 3.32 It is proposed to scope out effects on workplace locations (Scoping Report paragraph 5.6.16). The Secretary of State does not agree to scope these effects out. The ES should provide an assessment of all receptors likely to be exposed to elevated levels of pollutants unless otherwise exempted under other legislation.
- 3.33 It is proposed to scope out odour assessment from the air quality assessment based on the relatively small size of the development. The Secretary of State does not agree to scoping this out and considers that further justification is required based on the geographic location of potential odour sources and any potential sensitive receptors. The Applicant's attention is drawn to TDC's comments, contained in Appendix 3, in this regard. This justification must include reference to the potential for movement of contaminated material during construction. Otherwise, the applicant should provide an assessment in accordance with the relevant Institute of Air Quality Management (IAQM) standards.

Biodiversity

- 3.34 It is proposed to scope out potential effects on relevant habitats and species in watercourses/waterbodies resulting from contamination caused by soil disturbance or the accidental spillage of chemicals during the construction and operation of the airport. This is justified on the basis that there will be sufficient management and control measures contained in a 'construction management plan' and an 'environmental management plan' to mitigate any pollution incident. No information has been provided in the Scoping Report on the environmental management plan and the measures that it may contain, and no further reference is made to the construction management plan. The Secretary of State does not agree that these effects can be scoped out due to the potential for effects on European sites, and because insufficient information has been provided at this time to justify such an approach.

Ground & Surface Water

- 3.35 It is proposed that effects on local surface water quality via site run-off can be scoped out. It is explained that this is because there are no local surface water features due to the highly permeable nature of the site, and that there is a permitted discharge to Pegwell Bay. The Secretary of State does not agree that effects on local surface water can be scoped out during operation, since the existing discharge consent has lapsed. In addition, due to the potential for accidental spillages to Pegwell Bay via the site drainage network during construction, the Secretary of State does not agree that this matter should be scoped out for the construction phase(s), and advises that this matter should be assessed, with appropriate mitigation identified and secured in the DCO.

Historic Environment

- 3.36 It is proposed to scope out potential direct effects on heritage assets outside the proposed site boundary, on the basis that direct effects can only arise from physical disturbance of assets. The Secretary of State considers that, the potential for direct effects arising from offsite works, if required, would require evaluation and therefore must be scoped in.
- 3.37 It is proposed to scope out potential indirect effects on designated heritage assets outside of the 1km study area. The Secretary of State does not agree with this approach and considers that heritage assets located within the Zone of Theoretical Visibility (ZTV) should be considered for assessment as appropriate.

Land Quality

- 3.38 It is proposed to scope out potential contamination effects on human health due to spills and leaks from mechanised plant during the

construction phase. Chapter 9 limits this to the installation of the planned tank farms. The Secretary of State is satisfied that these matters can be dealt with through measures such as training and CEMPs. Drafts of such plans should be provided with the DCO application.

- 3.39 It is proposed to scope out potential effects on human health from any contaminated land during construction. Chapter 9 limits this to effects on construction workers from contaminated soil or buried animals. In light of the potential for contamination from a range of sources, e.g. aviation fuels, trichloroethylene (TCE) and unexploded ordnance (UXO), the Secretary of State considers that an assessment should be carried out, with appropriate mitigation identified and secured in the DCO.

Landscape and Visual

- 3.40 It is proposed to scope out potential effects on any landscape character areas and on any visual receptors within the study area that are entirely outside the development ZTV, as the Applicant considers that it is highly unlikely that effects could be sustained by other pathways in the absence of a visual effects pathway. The Secretary of State agrees that these can be scoped out.
- 3.41 In relation to the proposal to scope out potential effects on the National LCA 113: North Kent Basin (or North Kent Plain – see comments above) the Secretary of State does not consider that the Applicant has provided sufficient justification to support the assertion that significant effects cannot occur. Accordingly the Secretary of State does not agree that this matter can be scoped out.

Noise

- 3.42 Vibration effects on residential receptors from construction is listed as being scoped out in Chapter 11 paragraph 11.6.7 but is not listed in Chapter 14. The Secretary of State considers that further justification is required to scope out this effect, based on whether activities with potential to give rise to vibration will occur within a set distance from receptors, e.g. less than 100m, otherwise it is expected that a vibration assessment would be carried out in accordance with a recognised standard such as BS5228-2:2009+A1:2014 or equivalent.

Traffic and Transport

- 3.43 It is proposed to scope out 'potential noise, vibration, visual and ecological effects as a result of the traffic and transport associated with the construction and operation of the airport' in Scoping Report Table 14.1. The text within the table goes on to state that these effects will be considered and assessed elsewhere within the relevant ES chapter. For the avoidance of doubt the Secretary of State does not agree to scope these matters out and considers that these effects

should be assessed as part of the ES but is content for them to be presented within the relevant topic chapters.

- 3.44 Scoping Report paragraph 13.6.20 is incomplete. It appears to imply that assessment of dust, dirt and air pollution effects arising from construction vehicles may be scoped out from assessment. The Secretary of State does not agree to scope these out and considers that these effects should be assessed as part of the ES.

Topic Areas

Air Quality (see Scoping Report Chapter 5)

- 3.45 The Applicant identifies that the proposed development has potential to give rise to air quality effects during construction and operation from a range of sources. The Secretary of State agrees that changes in air quality should be assessed in relation to compliance with the European air quality limit values and with particular reference to AQMAs, such as the Thanet Urban Area AQMA. The Applicant should set out within the ES the proposed measures to minimise emissions from construction and operational activities.
- 3.46 The Secretary of State is generally satisfied with the methodology proposed, which is based on industry standard methods and includes the assessment of effects on both human and non-human receptors. Specific sensitive human and non-human receptors are not identified within the scope. The ES must justify the choice of receptors selected and these must be identified and agreed with TDC and Natural England (NE) respectively.
- 3.47 Scoping Report paragraph 5.6.5 refers to the assessment of construction dust utilising Environmental Protection UK and Institute of Air Quality Management (EPUK/IAQM) guidance on planning and air quality, and IAQM construction dust assessment guidance. These are considered to be appropriate methodological approaches and the Applicant should demonstrate that they have been applied consistently.
- 3.48 Scoping Report paragraph 5.6.12 states that dispersion modelling 'may' be undertaken for operational activity and is unclear regarding the exact scope of the pollutants proposed to be assessed. The Secretary of State considers that dispersion modelling using the Aviation Environmental Design Tool (AEDT), as indicated in paragraph 5.6.13, is appropriate and should be based on the worst case scenario, assumed to be full operation by 2035. This should include on- and off-airport effects where relevant.
- 3.49 The Secretary of State agrees that traffic emissions should be assessed using ADMS-Roads, subject to the relevant EPUK/IAQM thresholds. Such information should inform the ecological assessments. In light of the proximity of the site to the Thanet Urban

Area AQMA, the decision regarding whether detailed air quality assessment is undertaken should be based on all of the relevant indicative threshold criteria set out in Tables 6.1 and 6.2 of the EPUK/IAQM guidance, 'Land-Use Planning & Development Control: Planning For Air Quality', May 2015.

- 3.50 The Applicant should set out in the ES any proposals for long term air quality monitoring of airport-related activities.
- 3.51 It is noted that Scoping Report paragraph 5.4.2 references Ramsgate AQMA. It is assumed that this reference is incorrect and should be to Thanet Urban Area AQMA.
- 3.52 The Applicant's attention is drawn to TDC's comments, contained in Appendix 3, in relation to potential impacts of emissions on climate change. The applicant should give consideration to the carbon footprint of the proposed development during construction and operation, demonstrating how the development will contribute to achieving the objective of reducing global greenhouse gas emissions set out in the Aviation Policy Framework (Department for Transport, 2013).

Biodiversity (see Scoping Report Chapter 6)

- 3.53 Limited information has been provided in Section 6.6 of this chapter about the methodology for determining what would constitute a significant effect. The definition of a significant effect and the criteria that will be used to determine it must be clearly explained in the ES. The Secretary of State notes that it is stated that the biodiversity assessments will be undertaken 'with reference to' the Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines for Ecological Impact Assessment, and recommends that the assessments are carried out in accordance with those Guidelines.
- 3.54 Table 6.1 (pages 59 – 61) identifies eight European sites, and Figure 6.1 (Designated Sites of Nature Conservation Importance) shows the location of European sites (not identified by name), within 10km of the proposed development. It is indicated in Section 3.5 that only one Natura 2000 site is located within that radius, which is incorrectly identified as the 'Thanet Coast & Sandwich Bay Special Protection Area and Ramsar Site', which comprises two separate international sites, identified in Table 6.1 as the Thanet Coast & Sandwich Bay Special Protection Area (SPA) and the Thanet Coast & Sandwich Bay Ramsar site. Figure 6.1 does not include Sites of Community Importance (SCIs) in the legend, although the Margate and Long Sands SCI is identified in Table 6.1. The Secretary of State expects the ES to include relevant figures which accurately identify the location and name of all of the designated sites considered in the assessment.

- 3.55 It is stated in paragraph 6.1.2 that the Applicant intends to produce information required to inform a Habitats Regulations assessment (HRA). The Secretary of State recommends that this information is presented in the form of either a 'No Significant Effects Report' (NSER) or an HRA Report, as appropriate. Further guidance on HRA, to which the Applicant should refer, is contained in Section 4 of this Opinion and Planning Inspectorate Advice Note 10.
- 3.56 The Secretary of State notes that it is indicated in Section 3.5 that the Applicant intends to prepare an Evidence Plan in relation to HRA. It is recommended that preparation of this plan begins, and that NE is contacted, at the earliest opportunity during pre-application. Information on Evidence Plans is provided in Section 4 of this Opinion.
- 3.57 Section 6.4 indicates that consultation with relevant consultees has begun. It does not appear that the scope of and methodology for the ecological assessments has yet been agreed, however the Secretary of State notes that consultation is ongoing and that formal agreement is being sought and recommends that this is progressed as soon as possible. The Secretary of State recommends that surveys should be thorough, up to date, and take account of other development proposed in the vicinity.
- 3.58 It is noted that the Sandwich and Pegwell Bay National Nature Reserve (NNR) is identified in Table 6.2 as scoped in to the assessment, in relation to potential for indirect effects resulting from deterioration in the air quality and increased levels of deposition. The Secretary of State considers that the potential effects on the NNR of contamination of the existing outfall that discharges into Pegwell Bay should also be considered.
- 3.59 It is indicated in Section 6.5 that a 10km search area has been used to identify statutory sites which may be affected by the proposed development, a 1km search area from the airport boundary to identify non-statutory sites, and a 30m search area to identify any features of biodiversity conservation importance. Very limited information is provided to explain the basis for selecting these study areas. The extent of and rationale for selecting each of the ecological study areas should be clearly and fully set out in the ES Biodiversity chapter, and agreed with consultees where possible.
- 3.60 It is suggested in paragraph 6.6.7, and also reflected in paragraph 6.6.12, that direct effects are those that affect receptors on a development site while indirect effects are those that affect offsite receptors. The Secretary of State considers that this approach does not properly reflect how effects should be assessed, e.g. construction works on the boundary of a site or construction and operational traffic movements to and from the site could disturb flora and fauna beyond and at some distance from the boundary, depending on the nature of the activity and the sensitivity of the receptor; and aircraft

movements beyond the boundary could increase collision risk with birds. Consideration should be given by the Applicant to how direct and indirect effects are defined and assessed in the EIA.

- 3.61 It is suggested in Box 6.3 (page 66) that a small population of a priority species important at a national level that could be affected by a development would often be assessed as being of insufficient value for an effect to be significant and that therefore it could be 'scoped out' of an assessment. This approach is not completely consistent with the 2016 CIEEM Guidelines for Ecological Impact Assessment. The Secretary of State refers the Applicant in particular to Section 4 of that guidance, which provides advice on determining the importance of habitats and species. Any departure from that advice should be fully explained in the ES.
- 3.62 It is noted that the list of potential receptors scoped in for further assessment in Table 6.2 does not include over-wintering birds or great-crested newts, although Section 6.6 identifies potential for both of these to be found on the proposed development site and a potential need for more detailed survey work. The Secretary of State recommends that potential effects on these species are considered in the EIA.
- 3.63 Paragraph 6.6.16 notes that the design of the proposed development will incorporate measures to avoid or reduce adverse effects or deliver enhancements. Very limited reference is made in this chapter to potential mitigation measures for effects which may not be avoided or reduced as a result of the design, and no reference is made to how potential residual effects will be considered and assessed in the EIA. The Secretary of State expects such matters to be covered in the ES.
- 3.64 The Secretary of State draws attention to the need to consider combined effects in addition to cumulative effects. The ecological assessment should take account of noise, vibration, and air quality (including dust) impacts, and include consideration of the inter-relationship between effects on ground and surface water and on biodiversity features. The Applicant's attention is drawn to the comments of TDC, contained in Appendix 3 of this Opinion, in this regard. The Secretary of State notes and welcomes that the outcomes of the air quality assessment will be evaluated in the ES biodiversity chapter. Cross-reference should be made in the ES between the relevant topic chapters.
- 3.65 The Applicant's attention is drawn to the comments of KCC, contained in Appendix 3 of this Opinion, particularly in relation to the extent of the ecological study areas, and potential effects on nearby internationally designated sites.

Ground and Surface Water (see Scoping Report Chapter 7)

- 3.66 Chapter 7 of the Scoping Report references a number of detailed reports that inform the description of baseline conditions. The Applicant should ensure that this information is appended to the ES where it informs the assessment of effects.
- 3.67 The Secretary of State welcomes the proposed submission of a groundwater risk assessment in line with Groundwater protection: Principles and practice (GP3), Environment Agency (EA), August 2013, Version 1.1. Based on the location of the scheme above the Kent Isle of Thanet Chalk, which is a principal aquifer, and within the Lord of the Manor SPZ, and due to proximity to other SPZs, the Secretary of State considers that a quantitative risk assessment should be undertaken, unless robust justification can be provided otherwise. The Secretary of State requires that the scope of any intrusive works and associated mitigation measures is agreed with the EA, TDC and Southern Water, and welcomes the proposed ongoing consultation with these organisations.
- 3.68 The Applicant should ensure that the effect of the proposals on the objectives of the Water Framework Directive (WFD), as set out in the South East River Basin Management Plan, is assessed. The Applicant's attention is drawn to the comments of the EA, contained in Appendix 3 of this Opinion, which make reference to that Plan and also the Stour Catchment Plans, in this regard. The Secretary of State agrees that an assessment of the effects of the proposals on public and private water supplies should be undertaken. This should specifically consider effects and measures relating to TCE.
- 3.69 The Secretary of State welcomes the proposed submission of a Flood Risk Assessment (FRA) compliant with the NPPF and relevant local policies. The FRA should be developed in consultation with the EA and Lead Local Flood Authority. The Applicant's attention is drawn to the comments of KCC, contained in Appendix 3 of this Opinion, in this regard.
- 3.70 The Secretary of State welcomes the proposed inclusion of a site drainage plan, since drainage is a potential pathway for discharge of liquids and suspended solids into ground and coastal waters. The drainage plan should indicate both the existing and proposed drainage network. The Applicant should demonstrate that measures to avoid existing drainage runs or to block existing drains have informed the proposed construction methodology and operational design development. The Applicant should seek agreement for the proposed drainage attenuation ponds with Southern Water. The Applicant should outline any measures taken to treat drainage discharges, including any discussions with the EA and Southern Water in this respect.

- 3.71 Mitigation measures should be addressed and the Secretary of State advises that measures relating to other regimes, e.g. environmental permitting, are included, for example in relation to clean and foul water drainage discharges. Measures to attenuate runoff and to minimise water demand on site, e.g. via rainwater harvesting, should also be discussed. On-going monitoring should also be addressed and agreed with the relevant authorities to ensure that any mitigation measures are effective.
- 3.72 The list of good practice advice makes reference to the EA Agency Pollution Prevention Guidance (PPG) Notes. Whilst the content may remain relevant, it is noted that the PPGs were withdrawn in December 2015.
- 3.73 The ground and surface water assessment should cross reference to the land quality assessment, and avoid duplication of descriptive baseline information where possible.
- 3.74 Scoping Report Chapter 7 states that significance will be based on receptor sensitivity and magnitude of change criteria. No details regarding the significance thresholds are set out in the Scoping Report. The Secretary of State requires that specific significance criteria are set out in the ES.
- 3.75 The Applicant's attention is drawn to the EA's comments, contained in Appendix 3 of this Opinion, particularly in relation to potential sources of contamination of and impacts on the Kent Isle of Thanet Chalk principal aquifer.

Historic Environment (see Scoping Report Chapter 8)

- 3.76 The extent of consultation and level of agreement with relevant consultees in relation to the historic environment assessment is not clear in the Scoping Report. It is stated that an archaeological study area of 500m radius from the site has been agreed with KCC and Historic England (HE). However, it is also stated that KCC requested that consideration is given to other archaeological sites (listed) beyond this radius, effects on above-ground aviation-related archaeology, and effects of flights on heritage assets; and that HE requested the inclusion of other additional baseline views, including from Richborough Castle and the Abbey in Minster. It is not clear if it is intended to include these matters in the assessment; the Secretary of State considers that they should be assessed.
- 3.77 Section 8.6 proposes that 'significant sites' outside the search area will also be considered. The Secretary of State considers that the exclusion of such sites from the study area may mean that the study area has been drawn too tightly around the site. It is recommended that the Applicant agrees the extent of the study areas with relevant consultees at the earliest opportunity, and that this is primarily informed by the ZTV prepared as part of the landscape and visual

impact assessment (LVIA), rather than by an arbitrary buffer distance. It is noted that a ZTV of 5km is discussed in the landscape and visual chapter of the Scoping Report.

- 3.78 The ES should set out the rationale for selecting each of the heritage study areas. If the Applicant decides to assess features outside the selected study area, the approach taken to identifying such features must be clearly explained in the ES.
- 3.79 Consideration should be given to the inter-relationships between the historic environment and landscape and visual matters, and cross-reference should be made between the relevant ES chapters.
- 3.80 The Applicant's attention is drawn to the comments, contained in Appendix 3 of this Opinion, of KCC in relation to baseline environment surveys and potential impacts; and National Grid's comments about potential cumulative effects of the proposed development together with the Richborough Connection Project (RCP) on the historic environment.

Land Quality (see Scoping Report Chapter 9)

- 3.81 Scoping Report Section 9.4 highlights the potential risk of contamination and UXO being present on site and outlines that a Phase 1 Land Quality Assessment (LQA) supported by a site walkover and a 6 Alpha detailed UXO threat & risk assessment will be undertaken. The Secretary of State considers that the Phase 1 LQA should be carried out in accordance with the EA Model Procedures for the Management of Land Contamination (CLR11), and the UXO studies should be carried out in accordance with CIRIA Guide C681 - Unexploded ordnance (UXO): A guide for the construction industry.
- 3.82 Given the confirmed presence of contamination on site, the Secretary of State agrees that the risk assessment should be supported by ground investigation data, where appropriate. The scope of any intrusive investigation should be agreed with the EA and TDC.
- 3.83 The Secretary of State requires that the assessment consider the risk of discharges of contaminated material to European designated sites in Pegwell Bay and the potential for mobilisation of contamination within the aquifer. Given the potential for substantial material imports to level areas of the site, the Secretary of State considers that the assessment should also set out the Applicant's proposed control measures to ensure that fill materials do not introduce new sources of contaminants to the site.
- 3.84 The Secretary of State requires that for the purposes of any proposed investigation or construction works aquifer protection measures should be set out and agreed with Southern Water.

- 3.85 It is noted that baseline information in Scoping Report Section 9.5 overlaps with information in Scoping Report Chapter 7, and that for the purposes of the ES cross-referencing should be used where possible to avoid duplication of information.
- 3.86 Section 9.6 of the Scoping Report states that the Phase 1 LOA risk assessment will be used to identify potentially significant effects. The detailed significance criteria are not set out in the Scoping Report. The Secretary of State requires that specific significance criteria are described in the ES.
- 3.87 The Applicant's attention is drawn to the comments of TDC, contained in Appendix 3 of this Opinion, particularly in relation to potential sources of land contamination as a result of the former uses of the site and consequent effects on sensitive receptors.

Landscape and Visual (see Scoping Report Chapter 10)

- 3.88 It is stated in paragraph 10.5.5 that Manston Airport is located within the National LCA 113: North Kent Plain, then noted in paragraph 10.6.12 that potential effects on the National LCA 113: North Kent Basin will not be considered in the EIA (and repeated in Table 14.1, Chapter 14). It is unclear whether this is a textual error or whether these references are to two different National LCAs, and it should be clarified in the ES.
- 3.89 The Secretary of State notes that consultation with relevant consultees, such as KCC and Thanet and Dover Councils, in relation to landscape and visual matters has not yet commenced, and recommends that the methodology, extent of the study area, potential receptors, and location of viewpoints is agreed with them at the earliest opportunity. It is noted that it is proposed to scope out effects on the North Kent National LCA (and any other LCAs outside the ZTV) (discussed above); the Applicant is referred to the Secretary of State's comments above.
- 3.90 The Secretary of State notes and welcomes that the landscape and visual assessment will include use of a ZTV. The ES should describe the model and methodology used and provide information on the area covered and the timing of any survey work. The ZTV should take account of any land raising activities at the airport. The Secretary of State notes that the location of viewpoints will be agreed with the local authorities.
- 3.91 In relation to temporal scope, it is stated that the LVIA will be undertaken for 'the construction period when the greatest level of construction activity is being undertaken'. However, it is understood that construction of the various elements of the proposed development will occur at different times in different locations, and therefore different receptors could be affected at each construction phase. The Applicant will need to ensure that the suggested

approach covers all receptors which could potentially be significantly affected in each construction phase.

- 3.92 The proposed development includes large structures on the site. The Secretary of State recommends that careful consideration is given to the form, siting, and use of materials and colours in terms of minimising the visual impact of these structures. The potential effects of the required airport lighting on night-time views should be taken into account. The Applicant's attention is drawn to TDC's comments, contained in Appendix 3, in this regard. The Secretary of State recommends that photomontages and wireframes of the proposed development are provided with the ES, and include night-time visualisations, bearing in mind the need for extensive night-time lighting across the site.
- 3.93 No information is provided in relation to potential mitigation other than a brief reference in paragraph 10.6.10 to mitigation planting. The Applicant should consider in the ES how measures proposed to mitigate landscape and visual effects, such as planting, may relate to other topics, for instance impacts on ecological receptors. Appropriate cross-reference should be made between related topics in the ES, such as Biodiversity, and Historic Environment.
- 3.94 Figure 10.3, in Appendix C, shows the long distance walking and cycling routes that fall within the LVIA study area. It identifies National Cycle Route 1 as crossing the south of the study area, although this is not referenced in the Scoping Report. The Applicant should ensure that this receptor is included in the EIA.
- 3.95 The Applicant's attention is drawn to National Grid's comments, contained in Appendix 3, about potential cumulative effects of the proposed development together with the RCP on landscape and visual receptors.

Noise (see Scoping Report Chapter 11)

- 3.96 Chapter 11 of the Scoping Report identifies the potential for significant noise effects to arise during construction and operation of the proposed airport.
- 3.97 The ES will need to provide a full, detailed description of sensitive receptors within the area adjacent to the airport, whilst avoiding duplication of baseline information between chapters where possible. The description should include reference to nearby properties in the northern part of Minster, off Alland Grange Lane, Woodchurch and immediately north of Spitfire Way. This may in part be addressed under Scoping Report paragraph 11.5.13 but it is unclear from the description.
- 3.98 Scoping Report paragraph 11.7.4 states that baseline noise monitoring will be undertaken at locations around the airport. The

position and duration of noise monitoring should be agreed with TDC Environmental Health Officers (EHOs). Monitoring should be undertaken in accordance with BS7445-1:2003 as highlighted in Scoping Report Table 11.3. Base data such as survey reports should be presented as part of the ES.

- 3.99 Scoping Report paragraphs 11.5.4 and 11.5.5 reference future baseline conditions assuming that the airport will remain closed. The Secretary of State considers that the future baseline should also consider potential changes in road/rail traffic and in housing development in the locality, e.g. such as Manston Green.
- 3.100 The Secretary of State considers that the 'ABC method' in BS5228-1:2009+A1:2014 is an appropriate methodology for the construction noise assessment. The Secretary of State notes the Scoping Report paragraph 11.6.8 comment that it is 'not clear what construction activities will take place'. The noise assessment should be based on a robust and consistent set of worst case assumptions regarding the duration, phasing and type of construction activity to be undertaken and on a clear description of operational activity. Where the two phases of activity overlap a combined worst case assessment should be provided.
- 3.101 The Scoping Report does not explicitly reference construction traffic noise assessment, although BS5228 allows for assessment of noise effects on haul routes. For the avoidance of doubt, the Secretary of State considers that construction traffic noise assessment should be undertaken, particularly in light of the potential requirement to import large volumes of fill material.
- 3.102 The Applicant proposes to model operational air noise using the AEDT or Integrated Noise Model (INM) (Scoping Report paragraph 11.7.8). It is understood that INM was withdrawn in 2015; therefore the Secretary of State considers that modelling based on the most up to date version of AEDT should be undertaken.
- 3.103 The Secretary of State agrees with the use of the ISO9613-2:1996 standard to inform modelling of ground noise from static sources. The noise modelling should transparently identify the location of any noisy operational activities such as Engine Ground Runs (EGR) and their proximity to sensitive receptors.
- 3.104 The Secretary of State considers that the ES should also include an assessment of vortex strike arising from plane movements.
- 3.105 Scoping Report paragraph 11.7.3 states that the assessment will assume a no-airport baseline, and that a review of environmental noise conditions at Manston Airport when last operational will also be undertaken. Any comparison with previous operations should acknowledge the differences in the types of aircraft used, against the likely aircraft predicted to use the airport.

- 3.106 The Secretary of State considers that operational road traffic noise can be assessed using the Calculation of Road Traffic Noise (CRTN) 1998 methodology as adapted by the Design Manual for Roads and Bridges (DMRB) 2011. The Secretary of State recommends that the detailed methodology and choice of noise receptors should be agreed with the relevant TDC EHO.
- 3.107 Where appropriate, effective measures should be provided to mitigate against noise nuisance and these should demonstrate the balanced approach set out in the Aviation Policy Framework, minimising the number of people affected by aircraft noise, particularly night noise, where possible. This may include physical measures such as bunds, screens and the orientation of buildings on site as well as management measures relating to flight paths and vehicle management. The Applicant should also outline how previous airport noise controls and commitments delivered through s106 agreements with TDC would be reflected as part of any operational environmental management system.
- 3.108 The Applicant's attention is drawn to TDC's comments, about operational noise impacts; and those of Minster Parish Council, in relation to the inclusion of information in the ES on potential noise impacts, contained in Appendix 3 of this Opinion.

Socio-Economic (see Scoping Report Chapter 12)

- 3.109 The Secretary of State notes that the socio-economic baseline description includes consideration of health, crime, tourism and education indicators. The proposed effect of Manston Airport should be considered for each of the indicators described. The Applicant is referred to the Secretary of State's comments in Section 4 of this Scoping Opinion in relation to health impact assessment. The Secretary of State recommends that effects on tourism are considered in their own right, as currently this appears to be considered in terms of effects on businesses only.
- 3.110 Significance criteria are set out in Scoping Report Tables 12.13 to 12.15. The description of large magnitude effects in Table 12.13 includes reference to "An effect that is likely to... ..significantly affect identified receptors". The Secretary of State considers that use of the term 'significantly' in this context is circular because significance of effect is determined by considering the magnitude of effect against the sensitivity of a receptor. The magnitude criteria are inconsistent as the definition of small and medium magnitude effects include 'number of receptors' as a criteria, whereas negligible and large magnitude effects focus appear to focus on 'identified receptors'.
- 3.111 The Secretary of State considers that the criteria have potential to undervalue impacts on key local businesses, since the removal of such a business would be unlikely to be considered greater than a small degree of effect.

- 3.112 The Secretary of State also considers that the criteria for sensitivity are too narrow, since they only relate to economic change, whereas the list of effects in Scoping Report paragraph 12.6.1 includes amenity effects.
- 3.113 Scoping Report Table 12.15 uses different terminology from Table 12.13 (small, medium, large vs low, medium, high). Terminology should be consistent in the ES.
- 3.114 The Secretary of State recommends that the assessment of socio-economic effects includes consideration of the potential opportunities arising from the proposed airport to create local skills and training opportunities. This should include consideration of the potential to create apprenticeship opportunities during construction and operation.
- 3.115 The socio-economic assessment and in particular any skills and training opportunities should be developed in discussion with TDC and KCC as appropriate.

Traffic and Transport (see Scoping Report Chapter 13)

- 3.116 The Secretary of State welcomes the proposed assessment of traffic-related environmental effects based on the Guidelines for Environmental Assessment of Road Traffic (GEART) as well as the preparation of a separate Transport Assessment (TA), Traffic Management Plan (TMP) and Travel Plan (TP). The study area and methodology for these assessments should be agreed with the local highways authority (KCC), TDC and Highways England, where appropriate. The assessment should include consideration of freight related trips on the strategic road network (e.g. M2 and A2).
- 3.117 The Secretary of State would expect on-going discussions and agreement, where possible, with the relevant authorities regarding transport and highways proposals.
- 3.118 The Secretary of State notes that substantial land raising may be required to accommodate the development proposals, which in turn has significant potential to generate HGV movements. The Applicant should outline what measures have been considered to reduce the impact of importing fill materials to site by road, including cut and fill balancing, alternative transport modes, e.g. rail, and local sourcing.
- 3.119 Scoping Report Table 13.1 sets out threshold based criteria for the assessment of significant effects in accordance with GEART, however paragraph 13.6.12 makes reference to the use of professional judgement in the determination of significant effects, '*so as to provide more meaningful conclusions*'. The Secretary of State requires robust justification for the use of professional judgement in moderating any assessment of significant effects.

- 3.120 Scoping Report paragraph 13.6.19 states that *'Only those activities which lead to a threshold being exceeded will be considered as part of the EIA and mitigation opportunities identified, all other effects would be considered not significant and therefore not reported'*. The Secretary of State supports the principle of proportionate EIA but requires that sufficient information is presented in the ES to justify the exclusion of these effects from further consideration.
- 3.121 The Applicant's attention is drawn to the comments, contained in Appendix 3 of this Opinion, of Highways England; of KCC, in relation to the revision of their Local Transport Plan, and potential impacts on Pegwell Bay; of TDC, particularly in relation to operational and junction capacity of the area road network; and of Royal Mail, particularly in relation to potential additional vehicle movements during the operational phase of the proposed development, and the need for thorough consultation.
- 3.122 The Applicant should also take into account National Grid's and Royal Mail's comments, contained in Appendix 3, about potential cumulative effects on construction traffic routes of the proposed development together with the RCP.

Waste

- 3.123 The Secretary of State considers it essential to take account of materials to be moved to and from the site during construction and operation and to identify where related potential traffic movements would be routed.
- 3.124 The Secretary of State advises that the ES should clarify and quantify the types of operational wastes to be generated by the airport (including dismantling wastes).

4 OTHER INFORMATION

- 4.1 This section does not form part of the Secretary of State's Opinion as to the information to be provided in the ES. However, it does respond to other issues that the Secretary of State has identified which may help to inform the preparation of the application for the DCO.

Pre-application Prospectus

- 4.2 The Planning Inspectorate offers a service for Applicants at the pre-application stage of the nationally significant infrastructure planning process. Details are set out in the prospectus 'Pre-application service for NSIPs'¹. The prospectus explains what the Planning Inspectorate can offer during the pre-application phase and what is expected in return. The Planning Inspectorate can provide advice about the merits of a scheme in respect of national policy, and review certain draft documents, as well as advise on procedural and other planning matters. Where necessary a facilitation role can be provided. The service is optional and free of charge.
- 4.3 The level of pre-application support provided by the Planning Inspectorate will be agreed between an Applicant and the Inspectorate at the beginning of the pre-application stage and will be kept under review.

Preliminary Environmental Information (PEI)

- 4.4 Consultation forms a crucial aspect of environmental impact assessment. As part of their pre-application consultation duties, Applicants are required to prepare a Statement of Community Consultation (SoCC). This sets out how the local community will be consulted about the proposed development. The SoCC must state whether the proposed development is EIA development, and if it is, how the Applicant intends to publicise and consult on PEI (defined in the EIA Regulations under Regulation 2 'Interpretation'). Further information in respect of PEI may be found in Planning Inspectorate Advice Note 7: Environmental Impact Assessment: Preliminary Environmental Information, Screening and Scoping.

¹ The prospectus is available from:
<http://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-Applicants/>

Habitats Regulations Assessment (HRA)

- 4.5 The Secretary of State notes that European sites² could potentially be affected by the proposed development. The Habitats Regulations require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects). Applicants should note that the competent authority in respect of NSIPs is the relevant Secretary of State. It is the Applicant's responsibility to provide sufficient information to the competent authority to enable them to carry out an AA or determine whether an AA is required.
- 4.6 The Applicant's attention is drawn to Regulation 5(2)(g) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (The APFP Regulations), and the need to include with the DCO application a report identifying European sites to which the Habitats Regulations applies and Ramsar sites, which may be affected by the proposed development.
- 4.7 The report to be submitted under Regulation 5(2)(g) of the APFP Regulations with the application must deal with two issues: the first is to enable a formal assessment by the competent authority of whether there is a likely significant effect; and the second, should it be required, is to enable the carrying out of an AA by the competent authority.
- 4.8 The Applicant's attention is also drawn to UK Government policy³, which states that the following sites should be given the same protection as European sites: possible SACs (pSACs); potential SPAs (pSPAs); and (in England) proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on any of the above sites.
- 4.9 Further information on the HRA process is contained within Planning Inspectorate Advice Note 10 available on the National Infrastructure Planning pages of the Planning Inspectorate's website. It is recommended that Applicants follow the advice contained within this Advice Note.

² The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/or are applied as a matter of Government policy, see PINS Advice Note 10.

³ In England, the NPPF, paragraph 118. In Wales, TAN 5, paragraphs 5.2.2 and 5.2.3.

Plan To Agree Habitats Information

- 4.10 A plan may be prepared to agree upfront what information in respect of the Habitats Regulations the Applicant needs to supply to the Planning Inspectorate as part of a DCO application. This is termed an 'Evidence Plan' for proposals wholly in England or in both England and Wales, but a similar approach can be adopted for proposals wholly in Wales. For ease these are all termed 'evidence plans' here.
- 4.11 Any Applicant for a proposed NSIP can choose to prepare an evidence plan. Preparation should begin at the start of pre-application (after notifying the Planning Inspectorate on an informal basis) with contacting Natural England.
- 4.12 An evidence plan will help to ensure compliance with the Habitats Regulations. It will be particularly relevant to NSIPs where impacts may be complex, large amounts of evidence may be needed or there are a number of uncertainties. It will also help Applicants meet the requirement to provide sufficient information (as explained in Advice Note 10) in their application, so the ExA can recommend to the Secretary of State whether or not to accept the application for examination and whether an appropriate assessment is required.

Sites of Special Scientific Interest (SSSIs)

- 4.13 The Secretary of State notes that a number of SSSIs are located close to or within the proposed development. Where there may be potential impacts on the SSSIs, the Secretary of State has duties under sections 28(G) and 28(I) of the Wildlife and Countryside Act 1981 (as amended) ('the W&C Act'). These are set out below for information.
- 4.14 Under s28(G), the Secretary of State has a general duty '... to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest'.
- 4.15 Under s28(I), the Secretary of State must notify the relevant nature conservation body (NCB), NE in this case, before authorising the carrying out of operations likely to damage the special interest features of a SSSI. Under these circumstances 28 days must elapse before deciding whether to grant consent, and the Secretary of State must take account of any advice received from the NCB, including advice on attaching conditions to the consent. The NCB will be notified during the examination period.
- 4.16 If Applicants consider it likely that notification may be necessary under s28(I), they are advised to resolve any issues with the NCB

before the DCO application is submitted to the Secretary of State. If, following assessment by Applicants, it is considered that operations affecting the SSSI will not lead to damage of the special interest features, Applicants should make this clear in the ES. The application documents submitted in accordance with Regulation 5(2)(l) could also provide this information. Applicants should seek to agree with the NCB the DCO requirements which will provide protection for the SSSI before the DCO application is submitted.

European Protected Species (EPS)

- 4.17 Applicants should be aware that the decision maker under the Planning Act 2008 (PA 2008) has, as the CA, a duty to engage with the Habitats Directive. Where a potential risk to an EPS is identified, and before making a decision to grant development consent, the CA must, amongst other things, address the derogation tests in Regulation 53 of the Habitats Regulations. Therefore the Applicant may wish to provide information which will assist the decision maker to meet this duty.
- 4.18 If an Applicant has concluded that an EPS licence is required the ExA will need to understand whether there is any impediment to the licence being granted. The decision to apply for a licence or not will rest with the Applicant as the person responsible for commissioning the proposed activity by taking into account the advice of their consultant ecologist.
- 4.19 Applicants are encouraged to consult with NE and, where required, to agree appropriate requirements to secure necessary mitigation. It would assist the examination if Applicants could provide, with the application documents, confirmation from NE whether any issues have been identified which would prevent the EPS licence being granted.
- 4.20 Generally, NE are unable to grant an EPS licence in respect of any development until all the necessary consents required have been secured in order to proceed. For NSIPs, NE will assess a draft licence application in order to ensure that all the relevant issues have been addressed. Within 30 working days of receipt, NE will either issue 'a letter of no impediment' stating that it is satisfied, insofar as it can make a judgement, that the proposals presented comply with the regulations, or will issue a letter outlining why NE consider the proposals do not meet licensing requirements and what further information is required before a 'letter of no impediment' can be issued. The Applicant is responsible for ensuring draft licence applications are satisfactory for the purposes of informing formal pre-application assessment by NE.
- 4.21 Ecological conditions on the site may change over time. It will be the Applicant's responsibility to ensure information is satisfactory for the purposes of informing the assessment of no detriment to the

maintenance of favourable conservation status (FCS) of the population of EPS affected by the proposals. Applicants are advised that current conservation status of populations may or may not be favourable. Demonstration of no detriment to favourable populations may require further survey and/or submission of revised short or long term mitigation or compensation proposals.

- 4.22 In England the focus concerns the provision of up-to-date survey information which is then made available to NE (along with any resulting amendments to the draft licence application). Applicants with projects in England (including activities undertaken landward of the mean low water mark) can find further information in Planning Inspectorate Advice Note 11, Annex C⁴.

Other Regulatory Regimes

- 4.23 The Secretary of State recommends that the Applicant should state clearly what regulatory areas are addressed in the ES and that the Applicant should ensure that all relevant authorisations, licences, permits and consents that are necessary to enable operations to proceed are described in the ES. Also it should be clear that any likely significant effects of the proposed development which may be regulated by other statutory regimes have been properly taken into account in the ES.
- 4.24 It will not necessarily follow that the granting of consent under one regime will ensure consent under another regime. For those consents not capable of being included in an application for consent under the PA 2008, the Secretary of State will require a level of assurance or comfort from the relevant regulatory authorities that the proposal is acceptable and likely to be approved, before they make a recommendation or decision on an application. The Applicant is encouraged to make early contact with other regulators. Information from the Applicant about progress in obtaining other permits, licences or consents, including any confirmation that there is no obvious reason why these will not subsequently be granted, will be helpful in supporting an application for development consent to the Secretary of State.

Water Framework Directive

- 4.25 EU Directive 2000/60/EC (the Water Framework Directive) establishes a framework for the protection of inland surface waters (rivers and lakes), transitional waters (estuaries), coastal waters and groundwater. Under the terms of the Directive, Member States are required to establish river basin districts and corresponding river

⁴ Advice Note 11, Annex C – Natural England and the Planning Inspectorate available from: http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

basin management plans outlining how the environmental objectives outlined in Article 4 of the Directive are to be met.

- 4.26 In determining an application for a DCO, the Secretary of State must be satisfied that the applicant has had regard to relevant river basin management plans and that the proposed development is compliant with the terms of the Water Framework Directive and its daughter directives. In this respect, the Applicant's attention is drawn to Regulation 5(2)(l) of the APFP Regulations which requires an application for an NSIP to be accompanied by 'where applicable, a plan with accompanying information identifying-... ..(iii) water bodies in a river basin management plan, together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development.'

The Environmental Permitting Regulations and the Water Resources Act

Environmental Permitting Regulations 2010

- 4.27 The Environmental Permitting Regulations 2010 require operators of certain facilities, which could harm the environment or human health, to obtain permits from the Environment Agency. Environmental permits can combine several activities into one permit. There are standard permits supported by 'rules' for straightforward situations and bespoke permits for complex situations. For further information, please see the Government's advice on determining the need for an environmental permit⁵.
- 4.28 The Environment Agency's environmental permits cover:
- industry regulation;
 - waste management (waste treatment, recovery or disposal operations);
 - discharges to surface water;
 - groundwater activities; and
 - radioactive substances activities.
- 4.29 Characteristics of environmental permits include:
- they are granted to operators (not to land);
 - they can be revoked or varied by the Environment Agency;
 - operators are subject to tests of competence;
 - operators may apply to transfer environmental permits to another operator (subject to a test of competence); and

⁵ Available from: <https://www.gov.uk/environmental-permit-check-if-you-need-one>

- conditions may be attached.

The Water Resources Act 1991

- 4.30 Under the Water Resources Act 1991 (as amended), anyone who wishes to abstract more than 20m³/day of water from a surface source such as a river or stream or an underground source, such as an aquifer, will normally require an abstraction licence from the Environment Agency. For example, an abstraction licence may be required to abstract water for use in cooling at a power station. An impoundment licence is usually needed to impede the flow of water, such as in the creation of a reservoir or dam, or construction of a fish pass.
- 4.31 Abstraction licences and impoundment licences are commonly referred to as 'water resources licences'. They are required to ensure that there is no detrimental impact on existing abstractors or the environment. For further information, please see the Environment Agency's web based guidance on applying for a full, transfer or impounding licence⁶:
- 4.32 Characteristics of water resources licences include:
- they are granted to licence holders (not to land);
 - they can be revoked or varied;
 - they can be transferred to another licence holder; and
 - in the case of abstraction licences, they are time limited.

Role of the Applicant

- 4.33 It is the responsibility of Applicants to identify whether an environmental permit and/or water resources licence is required from the Environment Agency before an NSIP can be constructed or operated. Failure to obtain the appropriate consent(s) is an offence.
- 4.34 The Environment Agency allocates a limited amount of pre-application advice for environmental permits and water resources licences free of charge. Further advice can be provided, but this will be subject to cost recovery.
- 4.35 The Environment Agency encourages Applicants to engage with them early in relation to the requirements of the application process. Where a project is complex or novel, or requires an HRA, Applicants are encouraged to "parallel track" their applications to the Environment Agency with their DCO applications to the Planning Inspectorate. Further information on the Environment Agency's role

⁶ Available from: <https://www.gov.uk/guidance/water-management-apply-for-a-water-abstraction-or-impoundment-licence>

in the infrastructure planning process is available in Annex D of the Planning Inspectorate's Advice Note 11: Working with public bodies in the infrastructure planning process.⁷

- 4.36 When considering the timetable to submit their applications, Applicants should bear in mind that the Environment Agency will not be in a position to provide a detailed view on the application until it issues its draft decision for public consultation (for sites of high public interest) or its final decision. Therefore the Applicant should ideally submit its application sufficiently early so that the Environment Agency is at this point in the determination by the time the DCO reaches examination.
- 4.37 It is also in the interests of an Applicant to ensure that any specific requirements arising from their permit or licence are capable of being carried out under the works permitted by the DCO. Otherwise there is a risk that requirements could conflict with the works which have been authorised by the DCO, e.g. a stack of greater height than that authorised by the DCO could be required, and render the DCO impossible to implement.

Health Impact Assessment

- 4.38 The Secretary of State considers that it is a matter for the Applicant to decide whether or not to submit a stand-alone Health Impact Assessment (HIA). However, the Applicant should have regard to the responses received from the relevant consultees regarding health, and in particular to the comments from Public Health England, including in relation to electric and magnetic fields (see Appendix 3).
- 4.39 The methodology for the HIA, if prepared, should be agreed with the relevant statutory consultees and take into account mitigation measures for acute risks.

Transboundary Impacts

- 4.40 The Secretary of State notes that the Applicant has not indicated whether the proposed development is likely to have significant impacts on another European Economic Area (EEA) State.
- 4.41 Regulation 24 of the EIA Regulations inter alia requires the Secretary of State to publicise a DCO application if the Secretary of State is of the view that the proposal is likely to have significant effects on the environment of another EEA state and where relevant to consult with the EEA state affected. The Secretary of State considers that where Regulation 24 applies, this is likely to have implications for the examination of a DCO application.

⁷ Available from: <http://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

- 4.42 The Secretary of State recommends that the ES should identify whether the proposed development has the potential for significant transboundary impacts and if so, what these are and which EEA States would be affected.

APPENDIX 1 – PRESENTATION OF THE ENVIRONMENTAL STATEMENT

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264) (as amended) sets out the information which must be provided for an application for a development consent order for nationally significant infrastructure under the Planning Act 2008. Where required, this includes an environmental statement. Applicants may also provide any other documents considered necessary to support the application. Information which is not environmental information need not be replicated or included in the ES.

An environmental statement is described under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) as a statement:

- (a) that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and of any associated development and which the Applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile; but*
- (b) that includes at least the information required in Part 2 of Schedule 4.*

(EIA Regulations Regulation 2)

The purpose of an ES is to ensure that the environmental effects of a proposed development are fully considered, together with the economic or social benefits of the development, before the development consent application under the Planning Act 2008 is determined. The ES should be an aid to decision making.

The Secretary of State advises that the ES should be laid out clearly with a minimum amount of technical terms and should provide a clear objective and realistic description of the likely significant impacts of the proposed development. The information should be presented so as to be comprehensible to the specialist and non-specialist alike. The Secretary of State recommends that the ES be concise with technical information placed in appendices.

ES Indicative Contents

The Secretary of State emphasises that the ES should be a 'standalone' document in line with best practice and case law. The EIA Regulations Schedule 4, Parts 1 and 2, set out the information for inclusion in environmental statements.

Schedule 4 Part 1 of the EIA Regulations states this information includes:

17. Description of the development, including in particular—

- (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;*
- (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;*
- (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.*

18. An outline of the main alternatives studied by the Applicant and an indication of the main reasons for the Applicant's choice, taking into account the environmental effects.

19. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.

20. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:

- (a) the existence of the development;*
- (b) the use of natural resources;*
- (c) the emission of pollutants, the creation of nuisances and the elimination of waste,*

and the description by the Applicant of the forecasting methods used to assess the effects on the environment.

21. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

22. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.

23. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the Applicant in compiling the required information.

(EIA Regulations Schedule 4 Part 1)

The content of the ES must include as a minimum those matters set out in Schedule 4 Part 2 of the EIA Regulations. This includes the consideration of 'the main alternatives studied by the Applicant' which the Secretary of State recommends could be addressed as a separate chapter in the ES. Part 2 is included below for reference:

24. A description of the development comprising information on the site, design and size of the development

25. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects

26. The data required to identify and assess the main effects which the development is likely to have on the environment

27. An outline of the main alternatives studied by the Applicant and an indication of the main reasons for the Applicant's choice, taking into account the environmental effects, and

28. A non-technical summary of the information provided [under the four paragraphs of Schedule 4 part 2 above].

(EIA Regulations Schedule 4 Part 2)

Traffic and transport is not specified as a topic for assessment under Schedule 4; although in line with good practice the Secretary of State considers it is an important consideration *per se*, as well as being the source of further impacts in terms of air quality and noise and vibration.

Balance

The Secretary of State recommends that the ES should be balanced, with matters which give rise to a greater number or more significant impacts being given greater prominence. Where few or no impacts are identified, the technical section may be much shorter, with greater use of information in appendices as appropriate.

The Secretary of State considers that the ES should not be a series of disparate reports and stresses the importance of considering inter-relationships between factors and cumulative impacts.

Scheme Proposals

The scheme parameters will need to be clearly defined in the draft DCO and therefore in the accompanying ES which should support the application as described. The Secretary of State is not able to entertain material changes to a project once an application is submitted. The Secretary of State draws the attention of the Applicant to the DCLG and the Planning Inspectorate's published advice on the preparation of a draft DCO and accompanying application documents.

Flexibility

The Secretary of State acknowledges that the EIA process is iterative, and therefore the proposals may change and evolve. For example, there may be changes to the scheme design in response to consultation. Such changes should be addressed in the ES. However, at the time of the application for a DCO, any proposed scheme parameters should not be so wide ranging as to represent effectively different schemes.

It is a matter for the Applicant, in preparing an ES, to consider whether it is possible to assess robustly a range of impacts resulting from a large number of undecided parameters. The description of the proposed development in the ES must not be so wide that it is insufficiently certain to comply with requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations.

The Rochdale Envelope principle (*see R v Rochdale MBC ex parte Tew (1999) and R v Rochdale MBC ex parte Milne (2000)*) is an accepted way of dealing with uncertainty in preparing development applications. The Applicant's attention is drawn to the Planning Inspectorate's Advice Note 9 'Rochdale Envelope' which is available on the Advice Note's page of the National Infrastructure Planning website.

The Applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the scheme have yet to be finalised and provide the reasons. Where some flexibility is sought and the precise details are not known, the Applicant should assess the maximum potential adverse impacts the project could have to ensure that the project as it may be constructed has been properly assessed.

The ES should be able to confirm that any changes to the development within any proposed parameters would not result in significant impacts not previously identified and assessed. The maximum and other dimensions of the proposed development should be clearly described in the ES, with appropriate justification. It will also be important to consider choice of materials, colour and the form

of the structures and of any buildings. Lighting proposals should also be described.

Scope

The Secretary of State recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and local authorities and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified.

Physical Scope

In general the Secretary of State recommends that the physical scope for the EIA should be determined in the light of:

- the nature of the proposal being considered;
- the relevance in terms of the specialist topic;
- the breadth of the topic;
- the physical extent of any surveys or the study area; and
- the potential significant impacts.

The Secretary of State recommends that the physical scope of the study areas should be identified for each of the environmental topics and should be sufficiently robust in order to undertake the assessment. This should include at least the whole of the application site, and include all offsite works. For certain topics, such as landscape and transport, the study area will need to be wider. The extent of the study areas should be on the basis of recognised professional guidance and best practice, whenever this is available, and determined by establishing the physical extent of the likely impacts. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given.

Breadth of the Topic Area

The ES should explain the range of matters to be considered under each topic and this may respond partly to the type of project being considered. If the range considered is drawn narrowly then a justification for the approach should be provided.

Temporal Scope

The assessment should consider:

- Environmental impacts during construction works;
- Environmental impacts on completion/operation of the proposed development;
- Where appropriate, environmental impacts a suitable number of years after completion of the proposed development (for example, in order to allow for traffic growth or maturing of any landscape proposals); and
- Environmental impacts during decommissioning.

In terms of decommissioning, the Secretary of State acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment, as well as to enable the decommissioning of the works to be taken into account, is to encourage early consideration as to how structures can be taken down. The purpose of this is to seek to minimise disruption, to re-use materials and to restore the site or put it to a suitable new use. The Secretary of State encourages consideration of such matters in the ES.

The Secretary of State recommends that these matters should be set out clearly in the ES and that the suitable time period for the assessment should be agreed with the relevant statutory consultees.

The Secretary of State recommends that throughout the ES a standard terminology for time periods should be defined, such that for example, 'short term' always refers to the same period of time.

Baseline

The Secretary of State recommends that the baseline should describe the position from which the impacts of the proposed development are measured. The baseline should be chosen carefully and, whenever possible, be consistent between topics. The identification of a single baseline is to be welcomed in terms of the approach to the assessment, although it is recognised that this may not always be possible.

The Secretary of State recommends that the baseline environment should be clearly explained in the ES, including any dates of surveys, and care should be taken to ensure that all the baseline data remains relevant and up to date.

For each of the environmental topics, the data source(s) for the baseline should be set out together with any survey work undertaken with the dates. The timing and scope of all surveys should be agreed

with the relevant statutory bodies and appropriate consultees, wherever possible.

The baseline situation and the proposed development should be described within the context of the site and any other proposals in the vicinity.

Identification of Impacts and Method Statement

Legislation and Guidelines

In terms of the EIA methodology, the Secretary of State recommends that reference should be made to best practice and any standards, guidelines and legislation that have been used to inform the assessment. This should include guidelines prepared by relevant professional bodies.

In terms of other regulatory regimes, the Secretary of State recommends that relevant legislation and all permit and licences required should be listed in the ES where relevant to each topic. This information should also be submitted with the application in accordance with the APFP Regulations.

In terms of assessing the impacts, the ES should approach all relevant planning and environmental policy – local, regional and national (and where appropriate international) – in a consistent manner.

Assessment of Effects and Impact Significance

The EIA Regulations require the identification of the 'likely significant effects of the development on the environment' (Schedule 4 Part 1 paragraph 20).

As a matter of principle, the Secretary of State applies the precautionary approach to follow the Court's reasoning in judging 'significant effects'. In other words 'likely to affect' will be taken as meaning that there is a probability or risk that the proposed development will have an effect, and not that a development will definitely have an effect.

The Secretary of State considers it is imperative for the ES to define the meaning of 'significant' in the context of each of the specialist topics and for significant impacts to be clearly identified. The Secretary of State recommends that the criteria should be set out fully and that the ES should set out clearly the interpretation of 'significant' in terms of each of the EIA topics. Quantitative criteria should be used where available. The Secretary of State considers that this should also apply to the consideration of cumulative impacts and impact inter-relationships.

The Secretary of State recognises that the way in which each element of the environment may be affected by the proposed development can be approached in a number of ways. However it considers that it would be helpful, in terms of ease of understanding and in terms of clarity of presentation, to consider the impact assessment in a similar manner for each of the specialist topic areas. The Secretary of State recommends that a common format should be applied where possible.

Inter-relationships between environmental factors

The inter-relationship between aspects of the environments likely to be significantly affected is a requirement of the EIA Regulations (see Schedule 4 Part 1 of the EIA Regulations). These occur where a number of separate impacts, e.g. noise and air quality, affect a single receptor such as fauna.

The Secretary of State considers that the inter-relationships between factors must be assessed in order to address the environmental impacts of the proposal as a whole. This will help to ensure that the ES is not a series of separate reports collated into one document, but rather a comprehensive assessment drawing together the environmental impacts of the proposed development. This is particularly important when considering impacts in terms of any permutations or parameters to the proposed development.

Cumulative Impacts

The potential cumulative impacts with other major developments will need to be identified, as required by the Directive. The significance of such impacts should be shown to have been assessed against the baseline position (which would include built and operational development). In assessing cumulative impacts, other major development should be identified through consultation with the local planning authorities and other relevant authorities. Applicants should refer to Planning Inspectorate Advice Note 17 Cumulative Effects Assessment for further guidance on the Inspectorate's recommended approach to cumulative effects assessment.

Details should be provided in the ES, including the types of development, location and key aspects that may affect the EIA and how these have been taken into account as part of the assessment will be crucial in this regard.

For the purposes of identifying any cumulative effects with other developments in the area, Applicants should also consult consenting bodies in other EU states to assist in identifying those developments (see commentary on transboundary effects below).

Related Development

The ES should give equal prominence to any development which is related with the proposed development to ensure that all the impacts of the proposal are assessed.

The Secretary of State recommends that the Applicant should distinguish between the proposed development for which development consent will be sought and any other development. This distinction should be clear in the ES.

Alternatives

The ES must set out an outline of the main alternatives studied by the Applicant and provide an indication of the main reasons for the Applicant's choice, taking account of the environmental effect (Schedule 4 Part 1 paragraph 18).

Matters should be included, such as inter alia alternative design options and alternative mitigation measures. The justification for the final choice and evolution of the scheme development should be made clear. Where other sites have been considered, the reasons for the final choice should be addressed.

The Secretary of State advises that the ES should give sufficient attention to the alternative forms and locations for the off-site proposals, where appropriate, and justify the needs and choices made in terms of the form of the development proposed and the sites chosen.

Mitigation Measures

Mitigation measures may fall into certain categories namely: avoid; reduce; compensate; or enhance (see Schedule 4 Part 1 paragraph 21), and should be identified as such in the specialist topics. Mitigation measures should not be developed in isolation as they may relate to more than one topic area. For each topic, the ES should set out any mitigation measures required to prevent, reduce and where possible offset any significant adverse effects, and to identify any residual effects with mitigation in place. Any proposed mitigation should be discussed and agreed with the relevant consultees.

The effectiveness of mitigation should be apparent. Only mitigation measures which are a firm commitment and can be shown to be deliverable should be taken into account as part of the assessment.

It would be helpful if the mitigation measures proposed could be cross-referred to specific provisions and/or requirements proposed within the draft development consent order. This could be achieved by means of describing the mitigation measures proposed either in each of the specialist reports or collating these within a summary section on mitigation.

The Secretary of State advises that it is considered best practice to outline in the ES, the structure of the environmental management and monitoring plan and safety procedures which will be adopted during construction and operation and may be adopted during decommissioning.

Cross References and Interactions

The Secretary of State recommends that all the specialist topics in the ES should cross reference their text to other relevant disciplines. Interactions between the specialist topics is essential to the production of a robust assessment, as the ES should not be a collection of separate specialist topics, but a comprehensive assessment of the environmental impacts of the proposal and how these impacts can be mitigated.

As set out in EIA Regulations Schedule 4 Part 1 paragraph 23, the ES should include an indication of any technical difficulties (technical deficiencies or lack of know-how) encountered by the Applicant in compiling the required information.

Consultation

The Secretary of State recommends that ongoing consultation is maintained with relevant stakeholders and that any specific areas of agreement or disagreement regarding the content or approach to assessment should be documented. The Secretary of State recommends that any changes to the scheme design in response to consultation should be addressed in the ES.

Consultation with the local community should be carried out in accordance with the SoCC which will state how the Applicant intends to consult on the PEI. This PEI could include results of detailed surveys and recommended mitigation actions. Where effective consultation is carried out in accordance with Section 47 of the Planning Act, this could usefully assist the Applicant in the EIA process – for example the local community may be able to identify possible mitigation measures to address the impacts identified in the PEI. Attention is drawn to the duty upon Applicants under Section 50 of the Planning Act to have regard to the guidance on pre-application consultation.

Transboundary Effects

The Secretary of State recommends that consideration should be given in the ES to any likely significant effects on the environment of another Member State of the European Economic Area. In particular, the Secretary of State recommends consideration should be given to discharges to the air and water and to potential impacts on migratory species and to impacts on shipping and fishing areas.

The Applicant's attention is also drawn to the Planning Inspectorate's Advice Note 12 'Development with significant transboundary impacts consultation' which is available on the Advice Notes Page of the National Infrastructure Planning website⁸.

Summary Tables

The Secretary of State recommends that in order to assist the decision making process, the Applicant may wish to consider the use of tables:

Table X: to identify and collate the residual impacts after mitigation on the basis of specialist topics, inter-relationships and cumulative impacts.

Table XX: to demonstrate how the assessment has taken account of this Opinion and other responses to consultation.

Table XXX: to set out the mitigation measures proposed, as well as assisting the reader, the Secretary of State considers that this would also enable the Applicant to cross refer mitigation to specific provisions proposed to be included within the draft Development Consent Order.

Table XXXX: to cross reference where details in the HRA (where one is provided) such as descriptions of sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.

Terminology and Glossary of Technical Terms

The Secretary of State recommends that a common terminology should be adopted. This will help to ensure consistency and ease of understanding for the decision making process. For example, 'the site' should be defined and used only in terms of this definition so as to avoid confusion with, for example, the wider site area or the surrounding site. A glossary of technical terms should be included in the ES.

Presentation

The ES should have all of its paragraphs numbered, as this makes referencing easier as well as accurate. Appendices must be clearly referenced, again with all paragraphs numbered. All figures and drawings, photographs and photomontages should be clearly referenced. Figures should clearly show the proposed site application boundary.

⁸ Available from: <http://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

Confidential Information

In some circumstances it will be appropriate for information to be kept confidential. In particular, this may relate to information about the presence and locations of rare or sensitive species such as badgers, rare birds and plants where disturbance, damage, persecution or commercial exploitation may result from publication of the information. Where documents are intended to remain confidential the Applicant should provide these as separate paper and electronic documents with their confidential nature clearly indicated in the title, and watermarked as such on each page. The information should not be incorporated within other documents that are intended for publication or which the Planning Inspectorate would be required to disclose under the Environmental Information Regulations 2014.

Bibliography

A bibliography should be included in the ES. The author, date and publication title should be included for all references. All publications referred to within the technical reports should be included.

Non Technical Summary

The EIA Regulations require a Non Technical Summary (EIA Regulations, Schedule 4, Part 1, paragraph 22). This should be a summary of the assessment in simple language. It should be supported by appropriate figures, photographs and photomontages.

APPENDIX 2 – LIST OF BODIES FORMALLY CONSULTED

Note: the Prescribed Consultees have been consulted in accordance with the Planning Inspectorate’s Advice Note 3: EIA Consultation and Notification (version 6, June 2015)⁹.

SCHEDULE 1 DESCRIPTION	ORGANISATION
The Health and Safety Executive	Health and Safety Executive
The National Health Service Commissioning Board	NHS England
The relevant Clinical Commissioning Group	NHS Thanet Clinical Commissioning Group
Natural England	Natural England
The Historic Buildings and Monuments Commission for England	Historic England (South East Region)
The Relevant Fire and Rescue Authority	Kent Fire and Rescue
The Relevant Police and Crime Commissioner	Kent Police
The Relevant Parish Councils	Monkton Parish Council Minster-in-Thamet Parish Council Cliffsend Parish Council Manston Parish Council
The Environment Agency	The Environment Agency (South-East Regional Office)
The Civil Aviation Authority	Civil Aviation Authority
The Secretary of State for Transport	Department for Transport
The Relevant Highways Authority	Highways England (London & South East Region)
The Relevant Strategic Highways Company	Highways England (London & South East Region)

⁹ Available from: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

SCHEDULE 1 DESCRIPTION	ORGANISATION
Public Health England, an executive agency to the Department of Health	Public Health England
The Crown Estate Commissioners	The Crown Estate
The Forestry Commission	Forestry Commission (South East Region)
The Secretary of State for Defence	Ministry of Defence

RELEVANT STATUTORY UNDERTAKERS	
The relevant Clinical Commissioning Group	NHS Thanet Clinical Commissioning Group
The National Health Service Commissioning Board	NHS England
Ambulance Trusts	Ambulance Service NHS Foundation Trust (South East Coast Region)
Railways	Network Rail Infrastructure Ltd Highways England Historical Railways Estate
Civil Aviation Authority	Civil Aviation Authority
Licence Holder (Chapter 1 Of Part 1 Of Transport Act 2000)	NATS En-Route Safeguarding
Universal Service Provider	Royal Mail Group
Relevant Homes and Communities Agency	Homes and Communities Agency
Relevant Environment Agency	Environment Agency
Water and Sewage Undertakers	South East Water (Mid Kent)
Public Gas Transporter	Energetics Gas Limited Energy Assets Pipelines Limited ES Pipelines Ltd ESP Connections Ltd ESP Networks Ltd ESP Pipelines Ltd Fulcrum Pipelines Limited GTC Pipelines Limited Independent Pipelines Limited

RELEVANT STATUTORY UNDERTAKERS	
	<p>Indigo Pipelines Limited Quadrant Pipelines Limited LNG Portable Pipeline Services Limited National Grid Gas Plc Scotland Gas Networks Plc Southern Gas Networks Plc Wales and West Utilities Ltd</p>
Electricity Distributors With CPO Powers	<p>Energetics Electricity Limited ESP Electricity Limited Harlaxton Energy Networks Limited Independent Power Networks Limited Peel Electricity Networks Limited The Electricity Network Company Limited UK Power Distribution Limited Utility Assets Limited South Eastern Power Networks Plc UK Power Networks Limited</p>
Electricity Transmitters With CPO Powers	<p>National Grid Electricity Transmission Plc Blue Transmission London Array Limited Thanet OFTO Limited</p>
Electricity Interconnectors With CPO Powers	<p>National Grid Nemo Link Limited</p>

SECTION 43 CONSULTEES (FOR THE PURPOSES OF SECTION 42(B))	
Local Authorities	<p>Kent County Council East Sussex County Council Surrey County Council London Borough of Bromley London Borough of Bexley Thurrock Council Canterbury City Council Dover District Council</p>

SECTION 43 CONSULTEES (FOR THE PURPOSES OF SECTION 42(B))	
	Thanet District Council Medway Council

APPENDIX 3 – RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

Bodies who replied by the statutory deadline:

Canterbury City Council
Cliffsend Parish Council
Environment Agency
ESP Utilities
Highways England
Highways England Historical Railway Estate
Kent County Council
London Borough of Bexley
Minster Parish Council
National Grid
NATS (En Route) Public Limited Company
Public Health England
Royal Mail
South East Coast Ambulance Service NHS Foundation Trust
Thanet District Council

From: [CCC Development Management](#)
To: [Environmental Services](#)
Subject: Application by riverOak Investment Corp LLC for Order Granting Development Consent for Manson airport
Date: 29 July 2016 16:26:32

Your Ref: 160701_TRO200002_16746180

We write to confirm that Canterbury City Council have no comments

Regards

Development Management

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From: [Ashley Stacey](#)
To: [Environmental Services](#)
Subject: Application by Riveroak Investment Corp LLC
Date: 28 July 2016 14:10:48
Attachments: [Stonehill Park planning objection.doc](#)

Re your ref - 160701_TR020002_16746180

Please see comments below from Cliffsend Parish Council.

*Cliffsend Parish Council have examined and discussed the scoping report by Riveroak Inv Corp LLC, and are of the opinion that it is a well presented document , clear and concise in its content , more so than the report put forward for the Stonehill Park Development. *

UXO.

A case of particular issue with regard to the site is that of UXO (unexploded ordnance) page 105 of the scope report sec 9.6.8 which gives a much more detailed assessment of probability than does the Stonehill Park scoping one ,which we find vague on this issue.

NOISE

This subject is covered quite comprehensively in the scoping report, but we would like to make the suggestion that aircraft for disposal (which most probably will have noisier engines) be scheduled to land (wherever possible) from the West to minimise noise, especially in Ramsgate.

*Cliffsend Parish Council would like to state that following an open Planning Meeting regarding the Stonehill Park development plan the unanimous vote of Councillors and members of the public present was that Manston be retained as an airport. *

A response letter was sent following this meeting to Thanet District Council planning department outlining the Parish Councils objections (please see attached).

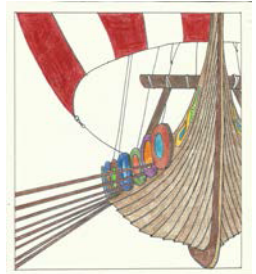
Kind Regards

Ashley Stacey

Clerk to Cliffsend PC

CLIFFSEND PARISH COUNCIL

CLERK - ASHLEY STACEY



7^h July 2016

Thanet District Council

PO Box 9

Cecil Street

Margate

Kent, CT9 1XZ

Dear Sir

Re Stonehill Park Proposed Development

OL/TH/16/0550

The Parish Council has held an open planning meeting, with borrowed planning documents and drawings made available for the public to view.

There was a unanimous vote of all attendees at the open meeting against this application, and for retention of the airport.

The Parish Council have met again to further consider and discuss these plans and documents.

We are opposed to both the Phase 1 Industrial Scheme Development and the outline proposal for mixed use development because

1. The site should be retained as an airport
2. The local infrastructure barely copes with current demand, and will be totally unable to cope with the proposed development; there is insufficient evidence of realistic & timely provision of essential improvements.
3. Allowing this development will lead to a single enlarged Ramsgate "town" incorporating Minster, Manston and Cliffsend.

Phase 1 comments

1. There are existing land areas adjacent to the Manston Airport site (Kent Business Park & Invicta Way) which are already allocated for industrial use, and which are fully serviced with roads and other infrastructure. These have as much / more space available as is being offered in Phase 1 of this proposal and are still mainly unused.
2. The proposed entrance to the Industrial area is on one of the narrowest parts of the B2190.

3. The proposed unit off Spitfire Way has poor narrow roads and the proposed improvements still leave the roads very narrow for operation of HGVs.
4. **If approved in full this would lead to the loss of part of the runway, and would affect any possible future use of the airport as an airport.**
5. **The Parish Council object strongly to this proposed development**

Comments on Outline application for “Stone Hill Park” mixed development

If built, are the proposed 2,500 homes extra to the 15,700 already “allocated” in the draft Thanet Local Plan?

The number of houses is too high.

Where are the jobs for the occupiers? Or is it aimed at London overspill?

If the application is approved

There needs to be a proper **road structure** appropriate to the new infrastructure whilst not creating traffic jams on existing junctions, bearing in mind the large increase in traffic which the development will inevitably create – e.g. Canterbury Road West / Cliffsend roundabout.

The **water and sewage** systems are currently at, or above, their capacity limits.

The **social infrastructure** is currently inadequate for residents in and around the Manston Area. Therefore it must be made compulsory that Health Care provision is in operation with the 1st houses, not after 1,000 houses.

Environmental – The developers are not addressing the fact that they are dealing with a site with a high risk of contamination.

Detailed Objections & Comments

Physical Infrastructure

1. Roads

The existing roads are completely inadequate and there are no realistic plans to alleviate the problem in a timely manner. All the details are for new on-site roads and access into the site, but they connect to the existing overcrowded system.

- a. Cliffsend Roundabout proposal.
 - During busy periods queues from the Eastbound traffic waiting at the traffic calming in Canterbury Road West would prevent any traffic from exiting the Stone Hill Park site.
 - To alleviate this problem the reconstructed roundabout would need to have traffic control - which would upset the current (relatively) free flow of traffic.
 - We suggest using slip roads onto and off the A299 Hengist Way at the existing emergency exit approx. mid way between the Minster & Cliffsend roundabouts - instead of linking directly to the Cliffsend roundabout.
- b. Effect on Canterbury Road West, Cliffsend
 - In order to prevent the Canterbury Road West becoming a rat run to the Lord of the Manor roundabout there needs to be some means of completely preventing traffic from travelling eastwards from the Cliffsend roundabout along this road, but whilst still giving access for buses. The existing chicane is helpful in reducing through traffic, but insufficient on its own

even now. A bus gate would solve the problem. Cliffsend bound traffic would have to access the village and Canterbury Road West either via the Cottington Link Road (off the Sevenscore roundabout) or via the Hengist Way Underpass & the Lord of the Manor roundabout. Villagers accept that some inconvenience to them is preferable to even more traffic on the Canterbury Road West. The existing traffic calming measures were hard-won after the almost total failure of the initial "traffic calming" measures installed on this road after the opening of the East Kent Access Roads.

- c. Sandwich Road & Southern Lord of the Manor roundabout
 - Proposals to widen the exit from Sandwich Road should not be carried out as it will only encourage extra use of the deliberately restricted traffic-calmed road. Extra traffic should be directed onto the new dual carriageways, not residential roads.
- d. Manston Road and Westwood X bound traffic
 - Traffic heading towards Haine Road & Westwood X will use the narrow Manston Road with its blind bends. This road is totally inadequate.
 - Birchington bound traffic via Acol. This road is even less suitable for any increase in traffic, but there appears to be no plan to prevent use by extra traffic from this development.
- e. Parkway Station pedestrian access via Canterbury Road West
 - Based on experience, people will not use the proposed footpath to the proposed Parkway Station; it deviates too far from a direct route and there is no continuous pedestrian footpath down Foads Hill. A better solution would be to provide a cycle path / footway on either side of the A299 Hengist Way between the Cliffsend and Sevenscore roundabouts and connect directly into the Parkway Station.

2. Water & Sewerage :-

- a. Water
 - The entire Thanet area has a potable water deficit. The addition of another 2,500 homes to an inadequate supply will be very challenging.
 - Manston airport lies over the aquifer; more concrete will reduce the flow to it as surface water drainage will be discharged into Pegwell Bay.
- b. Sewerage
 - The entire system is currently at capacity.
 - The existing system in Cliffsend blocks regularly and cannot cope with a larger load.
 - A complete new sewer system will be required to connect the proposed development to the Weatherlees treatment plant.
- c. Surface drainage
 - Diverting the surface water into Pegwell Bay from areas / soils on the Manston airport site which are disturbed during construction may result in contamination of the Bay.

Social Infrastructure

1. Hospitals
 - The QEQM at Margate is currently overloaded, with the threat of some services being moved to Canterbury and / or Ashford.
2. GP surgeries
 - Surgeries are closing. Urgent appointments are already difficult to obtain.
 - The provision of extra Surgery space will be required as the housing is built, not prior to the occupation of 1,000th residential unit.
3. Community Centre
 - The nearest community centres are in Minster / Ramsgate.

- Provision of an on-site facility should be much earlier than prior to the occupation of 1,000th residential unit.
4. Public Transport
 - Where will extra bus stops be placed in Canterbury Road West to service the new development? By the Cliffsend roundabout??
 5. Affordable Housing
 - With reference to 3.2 of 'S.106 Initial Heads of Terms' Cliffsend Parish Council expect the 30% target for low cost housing in this development to be enforced by the planning authority.

Environmental

1. Excavated materials
 - We note that the proposal will recycle excavated concrete from the runway & taxiways on site.
 - However, there appears to be no allowance for the fact that a significant proportion of these materials may well be contaminated with the residue of fuel spills and chemicals. Crushing them on site will result in airborne spread.
 - Removal of very large volumes of contaminated material off-site will require many thousands of lorry movements with a heavy effect on the local roads and population. Demolition of the runway alone could produce approx. 50,000 lorry loads of waste, & therefore 100,000 lorry movements.

- What routes will be used as any promised road improvements will not be in place at the demolition stage?

Contamination on the site

1. Given the long military history, wartime involvement and age of the airport it is highly probable that
 - Records are incomplete / missing.
 - There is a very high risk of the presence of unexploded ordnance.
 - Chemical contamination is present.
 - Undocumented chemical weapons (e.g. mustard gas shells) may be buried – possibly under the runway. Age will not “destroy” mustard gas, but will cause any container to deteriorate – increasing the risk.
2. Proposed actions to investigate / contain contamination seem inadequate
 - No mention of ground core sampling & analysis of the site prior to works taking place.

Kind Regards

Cllr John Alexander
Vice Chairman of Cliffsend PC and Chairman of Cliffsend Planning Committee

Dr Richard Hunt
Major Applications and Plans
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: KT/2016/121418/01-L01
Your ref: TR020002
Date: 26 July 2016

Dear Richard

SCOPING OPINION - APPLICATION BY RIVEROAK INVESTMENT CORP LLC FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR MANSTON AIRPORT

Thank you for consulting us on the scoping opinion prepared for the DCO application to be made for Manston Airport. We have the following comments based on the scoping report prepared by Amec Foster Wheeler Environment & Infrastructure UK Limited, dated June 2016.

Contamination

We welcome early consultation on any proposed plans for redevelopment of the former Manston Airport due to groundwater vulnerability. The former Manston Airport overlies chalk which is classified as a principal aquifer. The site lies in Source Protection Zone 1, 2 and 3 for a public water supply well. The well used to pump the water out of the ground is located very close to the boundary of the site. From this well, tunnels known as adits have been constructed to increase the flow of water to the well, one of these adits lies underneath the former runway on the site at approximately 35-40 metres below ground level.

Groundwater on the Isle of Thanet is extremely vulnerable to contamination as substances (natural substances and man-made chemicals) are able to pass rapidly through the thin soils and the natural fissures (cracks) in the Chalk rock to the groundwater.

This makes this site incredibly vulnerable to develop and maintain in the short and long term. The vulnerability of the groundwater will mean that some development and activities may not be suitable in certain locations, an Environmental Impact Assessment should provide detailed information on the sites vulnerability and help identify any limitations to development.

It is recommended that the requirements of the National Planning Policy Framework (NPPF) are followed. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Therefore, in completing any site investigations and risk assessments the applicant should assess the risk to groundwater and surface waters from contamination which may be present and where necessary carry out appropriate remediation.

As discussed in the Scoping Report, the Environmental Impact Assessment should include



detailed information on all potential sources of contamination. There are likely to be numerous potential sources of contamination from a former airfield. These potential sources should include (but are not be limited to) drainage infrastructure including interceptors, pesticide storage and use, aprons and taxiways where refuelling occurred, open trenches used in fog clearance and any underground tunnels that may have been used for storage.

The Environmental Impact Assessment will need to provide information on potential contamination of the site, but we would also expect a preliminary risk assessment and site investigation to accompany the DCO application for this site.

We recommend that the applicant:

1. Follows the risk management framework provide in CLR11, Model procedures for the management of land contamination
<https://www.gov.uk/government/publications/managing-land-contamination>
2. Uses BS 10175 2001, Investigation of potentially contaminated sites – Code of Practice as a guide to undertaking the desk study and site investigation scheme
3. Uses MCERTS accredited methods for testing contaminated soils at the site,
4. Further information may be found on the land contamination technical guidance pages on the direct.gov website
<https://www.gov.uk/government/collections/land-contamination-technical-guidance>

Site investigations and any disturbance of the ground before, during and after development, will need to take into account the vulnerability of the groundwater in the underlying aquifer. Any ground disturbance could cause turbidity of the groundwater at the abstraction well, and also pose a risk of causing instability in the adit. We recommend early consultation with Southern Water Services with regard to any planned intrusive investigations, on site demolition and subsequent development of the site.

Foul drainage

It will be important to establish appropriate disposal of foul drainage from the site at an early stage in the planning process. We will expect connection to be made to foul sewer as soon as the first phase of development is completed.

Surface water drainage

Due to the vulnerability of the groundwater in the underlying aquifer, there will be restrictions on any proposed infiltration of surface water to ground. Surface water drainage options will need to be agreed at an early stage in the planning process to ensure that there is an acceptable solution for each area of the airport.

Site maintenance

Due to the vulnerability of the site, we recommend that a site maintenance plan is agreed with us prior to the site being used. Maintenance of site infrastructure will be key to ensuring protection of the groundwater environment. Such a plan should include information on weed management, de-icing and fuel storage and dispensing. The Environmental Impact Assessment may not go into detail about this, but the applicant should be aware of what will be expected.

Pollution prevention

Where there is discussion of the legislative requirements, the Environmental Permitting (England and Wales) Regulations 2010, which are used to regulate discharges to the aquatic environment and makes an unauthorised discharge to water an offence, is omitted.

Water Framework Directive (WFD)

In Section 7.2.4 a number of regional management plans and strategies for the water environment of relevance to the assessment are listed. The South East River Basin Management Plan (SE RBMP) and the Stour Catchment plans, important when considering surface water quality, have been omitted. It is noted that the SE RBMP is mentioned in 7.5.26.

Scoped-out effects

Section 14 summarises the scoped-out effects. While the recommendation to scope-out “potential effects on relevant habitats and species in watercourses/water bodies” in this section is accepted, the development of the construction management plan and the environmental management plan for the airport will be of interest to us and, if possible, we request that we are consulted during their preparation.

Proposed discharge to Pegwell Bay

The report proposes utilising an existing environmental permit to discharge water to nearby Pegwell Bay (consent number P02558). Please note that this permit lapsed upon dissolution of previous operators (Kent International Airport Limited). A new environmental permit would need to be sought by the new operators of the site. The granting of this permit is dependent on site conditions and the quality and quantity of water to be discharged.

Advice for the applicant

We have produced advice with Natural England and the Forestry Commission on how new development can help improve the environment. This is in line with the national planning policy framework (NPPF) “*the planning system should contribute to and enhance the natural and local environment*” (Para 109). This can be found at <https://www.gov.uk/government/publications/planning-a-guide-for-developers>.

Please note that the view expressed in this letter by the Environment Agency is a response to a scoping opinion and does not represent our final view in relation to the proposed Development Consent Order in relation to this site. We reserve the right to change our position in relation to any such application.

I hope that these comments are helpful in setting out details to be considered by the applicant in the Environment Statement.

Yours sincerely

Jo Beck – Sustainable Places Specialist
Environment Agency – Kent and South London Area

Contact details:

Environment Agency, Rivers House, Sturry Road, Canterbury, Kent CT2 0AA
Direct dial: 0208 474 6713. Email: kslplanning@environment-agency.gov.uk

From: [ESP Utilities Group](#)
To: [Environmental Services](#)
Subject: Reference: PE130004. Plant Not Affected Notice from ES Pipelines
Date: 04 July 2016 11:23:44

Environmental Services
RiverOak LLP
Amec Foster Wheeler
Floor 4
London
EC2M 5TQ

4 July 2016

Reference: 160701_TR020002_16746180

Dear Sir/Madam,

Thank you for your recent plant enquiry at: Manston Airport, Ramsgate, Kent.

I can confirm that ESP Gas Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.

ESP are continually laying new gas and electricity networks and this notification is valid for 90 days from the date of this letter. If your proposed works start after this period of time, please re-submit your enquiry.

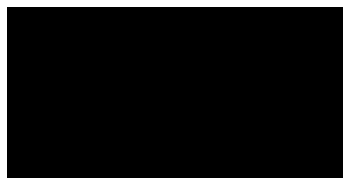
Important Notice

Please be advised that any enquiries for ESP Connections Ltd, formerly known as British Gas Connections Ltd, should be sent directly to us at the address shown above or alternatively you can email us at: PlantResponses@espipelines.com

Yours faithfully,

Alan Slee

Operations Manager



Hazeldean,
Station Road,
Leatherhead
KT22 7AA

 01372 227560  01372 377996

[MAP](#)

<http://www.esputilities.com>

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From: [Davies, Robert](#)
To: [Environmental Services](#)
Subject: RE: TR020002 – Manston Airport – EIA Scoping Notification and Consultation
Date: 04 July 2016 12:46:15

Dear Sir

I refer to your email notification of the above matter and can confirm that Highways England Historical Railway Estate team have no comment to make upon this proposal.

I should be clear that the above statement relates to the estate and structures managed by the Historical Railway Estate team on behalf of the Secretary of State for Transport as a consequence of the abolition of the former BRB(Residuary)Ltd.

It does not relate to any other asset or property that may be in the charge of other departments of Highways England.

Kind regards

Rob Davies

Robert Davies

Historical Railways Estate (on behalf of Department for Transport)

Hudson House | Toft Green | York | North Yorkshire | YO1 6HP

Tel: 01904 524869

Web: <http://www.highwaysengland.co.uk>

From: Environmental Services [mailto:environmentalservices@pins.gsi.gov.uk]
Sent: 01 July 2016 16:52
Subject: TR020002 – Manston Airport – EIA Scoping Notification and Consultation

Dear Sir/Madam

Please see the attached correspondence about the proposed Manston Airport project.

Please note the deadline for consultation responses is 29 July 2016 and is a statutory requirement that cannot be extended.

Kind regards,

Dr Richard Hunt

Senior EIA Advisor

Major Applications and Plans, The Planning Inspectorate, Temple Quay House, Temple Quay, Bristol, BS1 6PN

Direct Line: 0303 444 5149

Twitter: [@PINSgov](#)

Helpline: 0303 444 5000

Email: EnvironmentalServices@pins.gsi.gov.uk

Web: <http://infrastructure.planninginspectorate.gov.uk> (National Infrastructure Planning website)

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Highways England Company Limited | General enquiries: 0300 123 5000
|National Traffic Operations Centre, 3 Ridgeway, Quinton Business Park,
Birmingham B32 1AF | [https://www.gov.uk/government/organisations/highways-](https://www.gov.uk/government/organisations/highways-england)
[england](https://www.gov.uk/government/organisations/highways-england) | info@highwaysengland.co.uk

Registered in England and Wales no 9346363 | Registered Office: Bridge House,
1 Walnut Tree Close, Guildford, Surrey GU1 4LZ

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From: [Bown, Kevin](#)
To: [Environmental Services](#)
Cc: [Planning SE: growthandplanning](#); "transportplanning@Dft.Gsi.Gov.Uk"
Subject: FAO Dr Richard Hunt: Highways England response re. TR020002 - Manston Airport - EIA Scoping Notification and Consultation
Date: 18 July 2016 17:35:36

For the attention of: Dr Richard Hunt

Site: Manston Airport, Manston Road, Manston, Ramsgate CT12 5BQ

Development: Request for an EIA scoping opinion relating to an application for an Order Granting Development Consent for the reopening of Manston Airport as a new air freight and cargo hub

LPA Ref No: 160701_TR020002_16746180

Highways England Ref: 4492 / AM-1818

Dear Dr Hunt,

Thank you for your letter dated July 1 2016 regarding the above consultation.

Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case the M2 and A2.

Having examined the above Scoping Report, we offer the following comments:

- Due to the limited information on trip volumes at the current stage, we are concerned about the potential impact of freight-related trips on the M2 and A2. For this reason, regardless of whether the proposed Significance Criteria are triggered by the development, we require an assessment of the traffic impacts on sections of these roads likely to be used by project (construction and/or usage), with associated modelling of junctions as necessary. This is to ensure that additional traffic from the development can be accommodated on the SRN without additional queues and delays.
- Justification of assumptions made on trip generation and traffic routing should be provided as part of the assessment. This is to ensure that the assessment is robust in terms of the likely impact of traffic on the SRN.
- In the event that an EIA is required, the applicant should ensure that the EIA and Transport Assessment are mutually compatible. Any documentation should cover of all transport related impacts; for example, air quality and noise impacts, as well as traffic generation.

Should you have any queries regarding our response please contact us.

Regards

Kevin Bown, Spatial Planning Manager

Highways England | Bridge House | 1 Walnut Tree Close | Guildford | GU1 4LZ

Tel: +44 (0) 300 470 1046

Web: <http://www.highways.gov.uk>

Safe roads, reliable journeys, informed travellers

Highways England: operating, maintaining and improving the strategic road network in England.

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3D Eagle Wing
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**Growth, Environment
& Transport**

Room 1.62
Sessions House
MAIDSTONE
Kent ME14 1XQ

Phone: 03000 415981
Ask for: Barbara Cooper
Email: Barbara.Cooper@kent.gov.uk

BY EMAIL ONLY

28 July 2016

Dear Dr Hunt,

**Re: Application by RiverOak Investment Corp LLC for an Order Granting
Development Consent for Manston Airport**

Thank you for your letter dated 1 July 2016 providing Kent County Council with the opportunity to inform the Secretary of State on the information to be provided in the Environmental Statement relating to the redevelopment of Manston Airport, principally as a freight airport.

The County Council has reviewed the Scoping Report (June 2016) submitted by the applicant and for ease of reference, provides a commentary structured under the chapter headings used in the report.

3 Policy and Authorisations Overview

3.2 *Regional Planning Policy*

Paragraph 3.2.2 (page 23) states, “... *it can be concluded that there are no significant residual planning functions of Kent County Council*”. This statement is inaccurate and the County Council has a statutory responsibility to plan for the future supply of minerals and waste management in Kent, in its function as Minerals and Waste Planning Authority.

The Secretary of State is therefore advised to note that the Kent Minerals and Waste Local Plan 2013-30 was adopted by KCC on 14 July 2016. The Local Plan is relevant regional planning policy for matters relating to mineral supply and waste management in the administrative area of Kent (excluding Medway), and forms part of the statutory development plan for Kent.

The Scoping Report does not address minerals in terms of their use or sterilisation in the locality. There is no potential for sterilisation because the area has no economic minerals - chalk is no longer considered as a mineral by the British Geological Survey. However, construction activities will require minerals and this should be recognised, along with due consideration of the waste material arising from construction and its sustainable management.

Local Transport Plan for Kent 2011-2016

Paragraphs 3.2.3-3.2.6 (page 24) refer to the Local Transport Plan for Kent 2011-2016. The Secretary of State is advised to note that since the adoption of this Local Transport Plan, the County Council has published a Manston Airport Position Statement¹ (dated March 2015).

KCC is also currently taking the opportunity to replace the extant Local Transport Plan for Kent 2011-2016 and combine it with a refresh of the transport delivery plan Growth without Gridlock which was published as a standalone document in 2010. The emerging Local Transport Plan 4: Delivering Growth without Gridlock (2016-2031) will be subject to a statutory 12 week public consultation alongside an Environmental Report from August until October 2016. Page 23 of the Consultation Draft presented to the KCC Environment and Transport Cabinet Committee on 8 July 2016 states, *“At the present time, no viable business proposition for aviation at Manston Airport has come forward”*.

Following consideration of the consultation responses and the findings of the Environmental Report, a revised Local Transport Plan will be taken to the KCC Environment and Transport Cabinet Committee on 12 January 2017, Cabinet on 23 January 2017 and to the full County Council for adoption on 16 March 2017.

6 Biodiversity

The proposed approach to ecological impact assessment outlined is broadly acceptable although as the information is currently based only on a desk-top assessment, there is potential for additional ecological receptors to be identified during the course of the detailed survey work. KCC expects that the Environmental Statement will provide all the details of the ecological surveys carried out, and adequate justification for scoping out any ecological receptors.

The County Council does not agree with the conclusion that non-statutory sites beyond 1km from the site can be scoped out (paragraph 6.5.4, page 61). The operation of the proposed development could have much wider implications as a result of impacts from noise, reduced air quality and aircraft deposition and KCC advises that the assessment must include adequate consideration of the effects at all scales.

The County Council also advises that the definition of Local Wildlife Sites in Box 6.2 (page 64) is incorrect. Whilst some Local Wildlife Sites are publicly owned and

¹ *Manston Airport under private ownership: the story to date and the future prospects*

accessible, the majority are in private ownership and so are not accessible. Local Wildlife Sites have no requirement to provide recreational value.

Table 6.2 (pages 68-69) provides an overview of the potential receptors currently scoped in. As stated above, KCC advises that there may be additional ecological receptors identified during the initial ecological survey work.

There appears to be some typographical errors with regards to the Thanet Coast and Sandwich Bay Ramsar site and the Stodmarsh Ramsar site (pages 68-69) as the identified “Potentially significant effects” for both of these simply replicates the text relating to the respective SPA designations. KCC queries why there appears to be no intention to consider the potential effects of air quality and aircraft deposition on the SPA or Ramsar sites; the presence of the features is dependent on the quality of habitats and as such KCC considers there to be a need to consider habitat impacts.

Depending on the expected levels of use of the proposed development, KCC also queries whether there is a need to consider the impacts of traffic and freight travelling to and from the airport on designated sites further afield.

The County Council would anticipate that the submission will include consideration of all necessary mitigation measures, including where protected species impacts are expected even where it is concluded that effects will not be significant in the context of the Environmental Statement.

7 Ground and Surface Water

Paragraph 7.6.6 (page 87) states that a Flood Risk Assessment and Site Drainage Plan will be undertaken to address the potential effects of the proposed development on the water environment (including surface water drainage, pollution prevention and flood risk). KCC is therefore satisfied with the scope of the proposed Environmental Statement from a flooding/ drainage perspective.

The County Council has no preference as to whether the Flood Risk Assessment and Site Drainage Plan forms part of the Environmental Statement or is submitted as a standalone document. However, KCC would encourage the applicant and the consultant team to contact the Authority at the earliest opportunity to discuss the surface water management at this site and any associated implications for KCC as Lead Local Flood Authority. It must be ensured the drainage of the site is considered from the outset (at the masterplanning stage) and that sufficient room is allocated for appropriate drainage features.

8 Historic Environment

The baseline study needs to be informed through a rigorous examination of the Kent Historic Environmental Record and other records for heritage assets including examination of aerial photographs and maps within the study area. As explained at paragraph 8.4.1 (page 90), certain sites that lie outside the immediate study area need to be understood as they illustrate the character and richness of the archaeology that can be expected. The list set out at paragraph 8.4.1 is appropriate. The study will inevitably reveal a vast amount of data on the archaeology and

heritage assets in and around the sites. It is important that when reporting this data the archaeology / heritage assets are clearly set out by phase and feature so that the archaeological landscapes are properly articulated and extrapolated into the development site. For example, the assets should not be simply set out as dots on a map but interpreted so that the route of ancient roads, areas of settlement, industry, burial monuments and sites and features of the airfield are able to be readily identified from the data where that is possible.

KCC has advised and confirms the statement in paragraph 8.4.2 (page 91) that archaeological evaluation in the field is needed to inform the study and planning decision for this proposal. The County Council recognises that there are presently issues with regard to accessing the site but any major redevelopment of the airport needs to be informed by the results of a site walkover, geophysical survey and targeted trial trenching that encompasses the areas proposed for development. The principle intention is to enable an informed decision to be reached on the need for preservation of heritage assets in the area proposed for development and how that may be achieved.

With respect to the heritage of the airfield, this plays an important role in the sense of place of the area and the study should include a walkover to identify heritage assets, in particular structural remains and earthworks, and explain their significance and how they will be affected. As stated at paragraph 8.4.3 (page 91), a high level study by KCC is available and can be used but it needs to be supplemented by more detailed assessment. The study should also consider how the airfield heritage and the airfield landscape can be used positively to create a historic sense of place and be integrated into the heritage tourism that the two on-site museums already offer. The archaeology study may identify additional features that contribute to the airfield heritage study.

Historic England and the Thanet District Council Conservation Officer will lead on the issues relating to the setting of designated heritage assets. KCC agrees that the views from Richborough Scheduled Monument are particularly important as are the potential views from the Conservation Area and designated assets at Minster. The former Wantsum Sea Channel is a landscape scale heritage asset of regional significance and the impacts on this should be considered. It is not clear how the potential impact of flight noise over heritage assets will be included in the assessment (paragraph 8.4.5, page 91).

KCC would recommend that as part of the study the authors discuss the archaeology of the site with the Trust for Thanet Archaeology which has a good knowledge of Thanet's archaeology (paragraph 8.6.1, page 93). Furthermore, discussion with and use of the archives of the two museums at Manston will be essential in helping to understand the airfield heritage.

13 Traffic and Transport

There will be a requirement for a full transport assessment to accompany any application. In the interests of consistency and given the scale of the proposals, it is likely that there will be a requirement for the development proposals to be assessed using any strategic transport model that KCC may have developed at the time of the

application. This will in turn identify the high level traffic impacts of the development proposals which will inform a requirement for more detailed modelling processes at individual junctions.

Along with the assessments on the impact to existing Public Rights of Way, consideration should be given to historic mapping of footpaths and public access prior to the use of the site. In light of the proximity to the environmentally sensitive Pegwell Bay, the potential impacts on that site of increased dog walking and recreation must be assessed.

If you require further information or clarification on any matter in this letter then please do not hesitate to contact me.

Yours sincerely,



Barbara Cooper

Corporate Director – Growth, Environment and Transport

Development Control
Bexley Civic Offices
2 Watling Street, Bexleyheath,
Kent, DA6 7AT
020 8303 7777
www.bexley.gov.uk

28 JUL 2016



LONDON BOROUGH OF
BEXLEY

m/r 16/01679/SCOPE
y/r 160701_TR020002_16746180
The person dealing with this matter is

Direct Dial 020 3045 5840

Date **25 JUL 2016**
Helen Acton
helen.acton@bexley.gov.uk

Dr. Richard Hunt,
The Planning Inspectorate,
3D Eagle Wing,
Temple Quay House,
2 The Square,
Bristol. BS1 6PN

Dear Sir,

Town and Country Planning Act 1990 and Planning Act 2008 (as amended)
The Infrastructure Planning (Environmental Impact Assessment) Regulations
2009 (as amended)

Application by River Oak for an Order Granting Development Consent for
Manston Airport, Thanet, Kent.

Scoping consultation

I refer to your letter dated 1st July 2016 regarding the scoping opinion in respect of the development at Manston Airport described above. You have asked for the views of this Authority as a consultee.

I can advise you that this Authority has no comments to make on the scope of the environmental statement.

Yours sincerely

Susan Clark
Head of Development Control

From: [Parish Clerk](#)
To: [Environmental Services](#)
Subject: Application By Riveroak for an Order Granting Development Consent Order Your Ref: 160701_TR020002_16746180
Date: 28 July 2016 13:40:09
Importance: High

Dear Sir/ Madam

Minster Parish Council feel that the following information must be provided in the environmental statement:-

Number of flights per day

Hours during the day the flights will occur i.e. 0700-2300

Is there any night time flying if so what is the noise policy

Types of planes and their noise classification

Flight paths for take off and landing and restrictions depending on the size of aircraft

Restrictions on engine testing

How will noise and air pollution monitoring be carried out and how often. Who will it be reported to?

All of the above information should be compared to previous flight details when the airport was operating at its peak previously to enable comparison.

Consideration of improving the road infrastructure from the Minster roundabout to the main airport entrances.

Dismantling and recycling of aircraft – details of any exposure to dangerous substances that could transfer to pollute the air on dismantling and any other environmental or contamination issues arising from this process.

On behalf of Minster Parish Council
Minster Library & Neighbourhood Centre
4A Monkton Road
Minster
Nr. Ramsgate
Kent
CT12 4EA

Regards

Kyla Lamb
Parish Clerk
Minster Parish Council
Tel: 01843 821339
Email: clerk@minsterparishcouncil.org.uk



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Dr Richard Hunt
Senior EIA Advisor
Major Applications and Plans,
The Planning Inspectorate, Temple Quay House,
Temple Quay, Bristol,
BS1 6PN

Nick Dexter
DCO Liaison Officer
Land & Business Support
Nicholas.dexter@nationalgrid.com
Tel: +44 (0)7917 791925

Sent by email.

www.nationalgrid.com
29th July 2016

Dear Sir / Madam,

TR020002 – MANSTON AIRPORT – EIA SCOPING NOTIFICATION AND CONSULTATION

COMMENT ON SCOPING REPORT.

National Grid is responding to the consultation by the Planning Inspectorate in respect of its Scoping Opinion for Manston Airport (the “proposed development”). This is in respect of a proposed application for development consent to increase the capacity of the formerly operational Manston Airport from 0 to over 10,000 air transport movements a year. The previous operations on the site ceased in May 2014.

National Grid owns and maintains the electricity transmission network in England and Wales, providing electricity supplies from generating stations and interconnectors to local distribution companies. National Grid has a statutory duty to develop and maintain an efficient, coordinated and economical system of electricity transmission under the Electricity Act 1989. This includes a statutory obligation to offer to connect any new generating stations or interconnectors applying to connect to the transmission system.

National Grid assets

There are currently no existing National Grid apparatus affected by the proposed development.

Richborough Connection Project (RCP)

An application for development consent for the RCP was made on 14 January 2016. One of the new energy sources to be connected by National Grid is the Nemo Link®. This is the High Voltage Direct Current (HVDC) electricity interconnector project of approximately 1,000MW (or 1GW) capacity, which will connect the UK and Belgium. This project will allow the transmission of electricity between the UK and Belgium via a subsea cable and requires a connection to the National Grid high voltage National Electricity Transmission System (NETS) in the Richborough area where it makes landfall (comes out of the sea and onto the land).

There is no National Grid high voltage transmission network in the Richborough area. Therefore in order to provide a transmission connection, new transmission infrastructure is required between Richborough and the existing National Grid high voltage transmission network. To connect Nemo Link to National Grid’s high voltage transmission system, the RCP proposes a new high voltage 400kV

overhead electricity connection between Richborough and Canterbury North 400kV Substation in Kent.

Comments on the Scoping Report

Cumulative effects

The proposed development may be constructed and will operate concurrently with the RCP, which is identified as a Tier 1 project in Appendix B of the Scoping Report. The construction and operation of the RCP should continue to be considered as part of the proposed development's cumulative assessment.

Paragraph 13.6.18 of the Scoping Report identifies that the assessment will consider traffic and transport effects cumulatively with developments which may use routes within the study area. This should continue to be considered in respect of the proposed construction routes and programme of the RCP.

The RCP is within the LVIA study area as defined by Figure 10.1 of the Scoping Report. Any assessment in support of the proposed development should consider the cumulative impact on the historic environment and landscape and visual impact receptors. This is in accordance with the proposed stage one Zone of Influence discussed in Table 4.2 of the Scoping Report.

Former Manston Airport site

The former Manston Airport site has been discussed with Thanet District Council (TDC) as the local planning authority. The agreed position as set out in the Statement of Common Ground (**SoCG ID 4.29**) between National Grid and the Councils (**Doc 8.4.6**) as submitted on 14 July (Deadline 2) of the RCP Examination states:

“Manston Airport has been closed since May 2014. The former Manston Airport site is subject to three prospective proposals:

1) TDC has sought to find an indemnity partner for the compulsory acquisition of the airport. In January 2016, TDC undertook a soft marketing process to ascertain any interest in operating the site as an airport. A report was taken to Thanet District Council's Cabinet meeting on 16th June 2016 to outline the outcome of the soft market testing exercise. Cabinet agreed to note the results of the soft market testing assessment and take no further action in respect of the interested parties.

2) A potential DCO for the upgrade and reopening of Manston Airport primarily as a cargo airport, with some passenger services, with a capacity of at least 12,000 air cargo movements per year. RiverOak is in pre-application discussions with the Planning Inspectorate.

3) A mixed use scheme (Stone Hill Park Limited). Stone Hill Park Limited submitted an application (OH/TH/16/0550) on 31 May 2016 to TDC for determination. A hybrid application - the outline application (with all matters reserved except access) is for the following use classes: employment (B1a-c, B2/B8); Residential (C3/C2), Retail (A1-A5), education and other non-residential institutions (D1), Sport and Recreation (D2), Hotel (C1), open space, car parking, infrastructure, site preparation and associated works. The detailed element is for four industrial units (B1c/B2/B8) with car parking and associated infrastructure.

In terms of potential future aviation uses on the site, National Grid consulted with the Civil Aviation Authority (CAA), National Air Traffic Service (NATS) and Defence Estates Safeguarding (MOD) in respect of routeing and technology choice (including that of pylon design). The CAA responded during the statutory consultation period (10 February to 27 March 2015) and stated that the project will not

*constitute an en-route obstruction for civil aviation purposes (RCP application: **Volume 6, Document 6.1 - see Section 10, page 297**).*

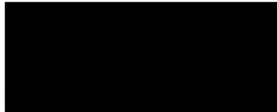
In terms of the mixed use proposals, National Grid and TDC consider that the Richborough Connection project would have no impact on the development proposals currently pending determination by TDC.

National Grid and TDC agree that the Richborough Connection project would have no impact on the potential future use of the former Manston Airport site.

This SOCG was agreed on 22 June 2016 and remains the position of National Grid in respect of the site.

I hope the above information is useful. If you require any further information please do not hesitate to contact me.

Yours faithfully

A solid black rectangular box used to redact the signature of Nick Dexter.

Nick Dexter
(Submitted Electronically)

From: [ALLEN, Sarah J](#) on behalf of [NATS Safeguarding](#)
To: [Environmental Services](#)
Subject: Your Ref: 160701_TR020002_16746180 (Our Ref: SG23394)
Date: 05 July 2016 08:11:59

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours faithfully,

Sarah Allen
Technical Administrator
On behalf of NERL Safeguarding Office

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Your Ref: 160701_TR020002_16746180
Our Ref : ADu/21703

Dr Richard Hunt
Senior EIA Advisor
The Planning Inspectorate
3D Eagle Wing
Temple Quay House
2 The Square
Bristol BS1 6PN

27th July 2016

Dear Dr Hunt,

**Re: Scoping Consultation
Application for an Order Granting Development Consent for the proposed Manston
Airport**

Thank you for including Public Health England (PHE) in the scoping consultation phase of the above application. Our response focuses on health protection issues relating to chemicals and radiation. Advice offered by PHE is impartial and independent.

In order to ensure that health is fully and comprehensively considered the Environmental Statement (ES) should provide sufficient information to allow the potential impact of the development on public health to be fully assessed.

We understand that the promoter will wish to avoid unnecessary duplication and that many issues including air quality, emissions to water, waste, contaminated land etc. will be covered elsewhere in the ES. PHE however believes the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. The section should summarise key information, risk assessments, proposed mitigation measures, conclusions and residual impacts, relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an ES, we recognise that the differing nature of projects is such that their impacts will vary. Any assessments undertaken to inform the ES should be proportionate to the potential impacts of the proposal, therefore we accept that, in some circumstances particular assessments may not be relevant to an application, or that an assessment may be adequately completed using a qualitative rather than

quantitative methodology. In cases where this decision is made the promoters should fully explain and justify their rationale in the submitted documentation.

It is noted that the current proposals do not appear to consider possible health impacts of Electric and Magnetic Fields (EMF). The proposer should confirm either that the proposed development does include or impact upon any potential sources of EMF; or ensure that an adequate assessment of the possible impacts is undertaken and included in the ES.

The attached appendix outlines generic areas that should be addressed by all promoters when preparing ES for inclusion with an NSIP submission. We are happy to assist and discuss proposals further in the light of this advice.

Yours sincerely,



nsipconsultations@phe.gov.uk

Please mark any correspondence for the attention of National Infrastructure Planning Administration.

Appendix: PHE recommendations regarding the scoping document

General approach

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA¹. It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

It is not PHE's role to undertake these assessments on behalf of promoters as this would conflict with PHE's role as an impartial and independent body.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the ES².

The following text covers a range of issues that PHE would expect to be addressed by the promoter. However this list is not exhaustive and the onus is on the promoter to ensure that the relevant public health issues are identified and addressed. PHE's advice and recommendations carry no statutory weight and constitute non-binding guidance.

Receptors

The ES should clearly identify the development's location and the location and distance from the development of off-site human receptors that may be affected by emissions from, or activities at, the development. Off-site human receptors may include people living in residential premises; people working in commercial, and industrial premises and people using transport infrastructure (such as roads and railways), recreational areas, and publicly-accessible land. Consideration should also be given to environmental receptors such as the surrounding land, watercourses, surface and groundwater, and drinking water supplies such as wells, boreholes and water abstraction points.

Impacts arising from construction and decommissioning

Any assessment of impacts arising from emissions due to construction and decommissioning should consider potential impacts on all receptors and describe monitoring and mitigation during these phases. Construction and decommissioning will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the promoter to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The promoter should ensure that there are robust mechanisms in place to respond to any complaints of traffic-related pollution, during construction, operation, and decommissioning of the facility.

Emissions to air and water

Significant impacts are unlikely to arise from installations which employ Best Available Techniques (BAT) and which meet regulatory requirements concerning emission limits and

¹ Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from: <http://www.communities.gov.uk/archived/publications/planningandbuilding/environmentalimpactassessment>

² DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

design parameters. However, PHE has a number of comments regarding emissions in order that the EIA provides a comprehensive assessment of potential impacts.

When considering a baseline (of existing environmental quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts
- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)
- should include consideration of local authority, Environment Agency, Defra national network, and any other local site-specific sources of monitoring data
- should compare predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as UK Air Quality Standards and Objectives and Environmental Assessment Levels)
 - If no standard or guideline value exists, the predicted exposure to humans should be estimated and compared to an appropriate health-based value (a Tolerable Daily Intake or equivalent). Further guidance is provided in Annex 1
 - This should consider all applicable routes of exposure e.g. include consideration of aspects such as the deposition of chemicals emitted to air and their uptake via ingestion
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken.

PHE's view is that the EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that standards, guideline values or health-based values will not be exceeded due to emissions from the installation, as described above. This should include consideration of any emitted pollutants for which there are no set emission limits. When assessing the potential impact of a proposed installation on environmental quality, predicted environmental concentrations should be compared to the permitted concentrations in the affected media; this should include both standards for short and long-term exposure.

Additional points specific to emissions to air

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)

- should include modelling using appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling taking into account local topography

Additional points specific to emissions to water

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts these:

- should include assessment of potential impacts on human health and not focus solely on ecological impacts
- should identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; recreational waters; sewers; geological routes etc.)
- should assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- should include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water

Land quality

We would expect the promoter to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report.

Emissions to and from the ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with ground contamination and/or the migration of material off-site should be assessed³ and the potential impact on nearby receptors and control and mitigation measures should be outlined.

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

- effects associated with ground contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination
- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

Waste

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes arising from the installation the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated

Other aspects

Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed;

³ Following the approach outlined in the section above dealing with emissions to air and water i.e. comparing predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as Soil Guideline Values)

and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation's potential to impact on, or be impacted by, any nearby installations themselves subject to these Regulations.

There is evidence that, in some cases, perception of risk may have a greater impact on health than the hazard itself. A 2009 report⁴, jointly published by Liverpool John Moores University and the Health Protection Agency (HPA), examined health risk perception and environmental problems using a number of case studies. As a point to consider, the report suggested: "Estimation of community anxiety and stress should be included as part of every risk or impact assessment of proposed plans that involve a potential environmental hazard. This is true even when the physical health risks may be negligible." PHE supports the inclusion of this information within EIAs as good practice.

Electromagnetic fields (EMF)

There is a potential health impact associated with the electric and magnetic fields around substations and the connecting cables or lines. The following information provides a framework for considering the potential health impact.

In March 2004, the National Radiological Protection Board, NRPB (now part of PHE), published advice on limiting public exposure to electromagnetic fields. The advice was based on an extensive review of the science and a public consultation on its website, and recommended the adoption in the UK of the EMF exposure guidelines published by the International Commission on Non-ionizing Radiation Protection (ICNIRP):-
<http://webarchive.nationalarchives.gov.uk/20140629102627/http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Abd1502/>

The ICNIRP guidelines are based on the avoidance of known adverse effects of exposure to electromagnetic fields (EMF) at frequencies up to 300 GHz (gigahertz), which includes static magnetic fields and 50 Hz electric and magnetic fields associated with electricity transmission.

PHE notes the current Government policy is that the ICNIRP guidelines are implemented in line with the terms of the EU Council Recommendation on limiting exposure of the general public (1999/519/EC):
http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/PublicHealth/HealthProtection/DH_4089500

For static magnetic fields, the latest ICNIRP guidelines (2009) recommend that acute exposure of the general public should not exceed 400 mT (millitesla), for any part of the body, although the previously recommended value of 40 mT is the value used in the Council Recommendation. However, because of potential indirect adverse effects, ICNIRP recognises that practical policies need to be implemented to prevent inadvertent harmful exposure of people with implanted electronic medical devices and implants containing ferromagnetic materials, and injuries due to flying ferromagnetic objects, and these considerations can lead to much lower restrictions, such as 0.5 mT as advised by the International Electrotechnical Commission.

⁴ Available from: <http://www.cph.org.uk/showPublication.aspx?pubid=538>

At 50 Hz, the known direct effects include those of induced currents in the body on the central nervous system (CNS) and indirect effects include the risk of painful spark discharge on contact with metal objects exposed to the field. The ICNIRP guidelines give reference levels for public exposure to 50 Hz electric and magnetic fields, and these are respectively 5 kV m⁻¹ (kilovolts per metre) and 100 µT (microtesla). If people are not exposed to field strengths above these levels, direct effects on the CNS should be avoided and indirect effects such as the risk of painful spark discharge will be small. The reference levels are not in themselves limits but provide guidance for assessing compliance with the basic restrictions and reducing the risk of indirect effects. Further clarification on advice on exposure guidelines for 50 Hz electric and magnetic fields is provided in the following note on the HPA website:

http://webarchive.nationalarchives.gov.uk/20140714084352/http://www.hpa.org.uk/Topics/Radiation/UnderstandingRadiation/InformationSheets/info_IcnirpExpGuidelines/

The Department of Energy and Climate Change has also published voluntary code of practices which set out key principles for complying with the ICNIRP guidelines for the industry.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/37447/1256-code-practice-emf-public-exp-guidelines.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48309/1255-code-practice-optimum-phasing-power-lines.pdf

There is concern about the possible effects of long-term exposure to electromagnetic fields, including possible carcinogenic effects at levels much lower than those given in the ICNIRP guidelines. In the NRPB advice issued in 2004, it was concluded that the studies that suggest health effects, including those concerning childhood leukaemia, could not be used to derive quantitative guidance on restricting exposure. However, the results of these studies represented uncertainty in the underlying evidence base, and taken together with people's concerns, provided a basis for providing an additional recommendation for Government to consider the need for further precautionary measures, particularly with respect to the exposure of children to power frequency magnetic fields.

The Stakeholder Advisory Group on ELF EMFs (SAGE) was then set up to take this recommendation forward, explore the implications for a precautionary approach to extremely low frequency electric and magnetic fields (ELF EMFs), and to make practical recommendations to Government. In the First Interim Assessment of the Group, consideration was given to mitigation options such as the 'corridor option' near power lines, and optimal phasing to reduce electric and magnetic fields. A Second Interim Assessment addresses electricity distribution systems up to 66 kV. The SAGE reports can be found at the following link:

<http://sagedialogue.org.uk/> (go to "Document Index" and Scroll to SAGE/Formal reports with recommendations)

The Agency has given advice to Health Ministers on the First Interim Assessment of SAGE regarding precautionary approaches to ELF EMFs and specifically regarding power lines and property, wiring and electrical equipment in homes:

http://webarchive.nationalarchives.gov.uk/20140629102627/http://www.hpa.org.uk/Publications/Radiation/HPAResponseStatementsOnRadiationTopics/rpdadvice_sage/

The evidence to date suggests that in general there are no adverse effects on the health of the population of the UK caused by exposure to ELF EMFs below the guideline levels. The scientific evidence, as reviewed by PHE, supports the view that precautionary measures should address solely the possible association with childhood leukaemia and not other more speculative health effects. The measures should be proportionate in that overall benefits outweigh the fiscal and social costs, have a convincing evidence base to show that they will be successful in reducing exposure, and be effective in providing reassurance to the public.

The Government response to the First SAGE Interim Assessment is given in the written Ministerial Statement by Gillian Merron, then Minister of State, Department of Health, published on 16th October 2009:

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091016/wmstext/91016m0001.htm>

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107124

HPA and Government responses to the Second Interim Assessment of SAGE are available at the following links:

http://webarchive.nationalarchives.gov.uk/20140629102627/http://www.hpa.org.uk/Publications/Radiation/HPAResponseStatementsOnRadiationTopics/rpdadvice_sage2/

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_130703

The above information provides a framework for considering the health impact associated with the proposed development, including the direct and indirect effects of the electric and magnetic fields as indicated above.

Liaison with other stakeholders, comments should be sought from:

- the local authority for matters relating to noise, odour, vermin and dust nuisance
- the local authority regarding any site investigation and subsequent construction (and remediation) proposals to ensure that the site could not be determined as 'contaminated land' under Part 2A of the Environmental Protection Act
- the local authority regarding any impacts on existing or proposed Air Quality Management Areas
- the Food Standards Agency for matters relating to the impact on human health of pollutants deposited on land used for growing food/ crops
- the Environment Agency for matters relating to flood risk and releases with the potential to impact on surface and groundwaters
- the Environment Agency for matters relating to waste characterisation and acceptance
- the Clinical Commissioning Groups, NHS commissioning Boards and Local Planning Authority for matters relating to wider public health

Environmental Permitting

Should the development require an environmental permit from the Environment Agency (under the Environmental Permitting (England and Wales) Regulations 2010), it is noted that PHE is a consultee for bespoke environmental permit applications and will respond separately to any such consultation.

Annex 1

Human health risk assessment (chemical pollutants)

The points below are cross-cutting and should be considered when undertaking a human health risk assessment:

- The promoter should consider including Chemical Abstract Service (CAS) numbers alongside chemical names, where referenced in the ES
- Where available, the most recent United Kingdom standards for the appropriate media (e.g. air, water, and/or soil) and health-based guideline values should be used when quantifying the risk to human health from chemical pollutants. Where UK standards or guideline values are not available, those recommended by the European Union or World Health Organisation can be used
- When assessing the human health risk of a chemical emitted from a facility or operation, the background exposure to the chemical from other sources should be taken into account
- When quantitatively assessing the health risk of genotoxic and carcinogenic chemical pollutants PHE does not favour the use of mathematical models to extrapolate from high dose levels used in animal carcinogenicity studies to well below the observed region of a dose-response relationship. When only animal data are available, we recommend that the 'Margin of Exposure' (MOE) approach⁵ is used

⁵ Benford D et al. 2010. Application of the margin of exposure approach to substances in food that are genotoxic and carcinogenic. Food Chem Toxicol 48 Suppl 1: S2-24



Manston Airport – proposed development by RiverOak Investment Corp LLP

Royal Mail Group Limited comments on information to be provided in applicant's Environmental Statement

Introduction

Reference the letter from PINS to Royal Mail dated 1 July 2016 requesting Royal Mail's comments on information that should be provided in RiverOak's Environmental Statement.

Royal Mail's consultants BNP Paribas Real Estate have reviewed the applicant's Scoping Report dated June 2016.

Royal Mail-relevant information

Royal Mail is responsible for providing efficient mail sorting and delivery nationally. As a Universal Service Provider under the Postal Services Act 2011, Royal Mail has a statutory duty to deliver mail to every residential and business address in the country as well as collecting mail from all Post Offices and post boxes six days a week.

Royal Mail's postal sorting and delivery operations rely heavily on road communications. Royal Mail's ability to provide efficient mail collection, sorting and delivery to the public is sensitive to changes in the capacity of the highway network.

Royal Mail is a major road user nationally. Disruption to the highway network and traffic delays can have direct consequences on Royal Mail's operations, to meet the Universal Service Obligation and comply with the regulatory regime for postal services thereby presenting a significant risk to Royal Mail's business.

Royal Mail has operational facilities in Ramsgate, Broadstairs, Margate, Canterbury and Deal. In exercising its statutory duties, Royal Mail uses all of the main roads in the vicinity of the proposed Manston Airport development on a daily basis.

Therefore Royal Mail is concerned that its future ability to provide an efficient mail sorting and delivery service to the public in accordance with its statutory obligations may be adversely affected by the construction and operation of this proposed scheme.

Royal Mail's comments on information that should be provided in RiverOak's Environmental Statement

The proposed scope of the work for the Traffic and Transport assessment that RiverOak will be preparing states that the traffic and transport assessment will consider:

- the highway route sections which are most likely to be used by traffic generated by the project;
- the volume of traffic likely to be added to these routes as a result of the project;
- potential effects upon highways, communities and safety as a result of changes in traffic levels; and



- the effects of the project in isolation and also cumulatively in combination with committed developments which may use routes within the study area for construction or operational traffic at the same time as the project.

Generally, this headline scope looks adequate to Royal Mail. However, Royal Mail has the following comments / requests:

1. Due to the magnitude of proposed air cargo movements and associated employment development at Manston Airfield, additional vehicle movements during the operational phase have potential to be more disruptive to Royal Mail's road operations than those during the construction phase.
2. The length of the construction phase is not specified in the scoping report – more information on this is needed.
3. More information is required on the extent and phasing of the proposed associated employment development.
4. The scoping report helpfully identifies that there is a significant amount of other planned development in the surrounding area, including the Richborough Connection DCO proposal. Therefore, Royal Mail considers that very careful attention must be given to the potential for cumulative traffic impact during the construction and operation phases.
5. Royal Mail requests that the Environmental Statement includes information on the needs of major road users (such as Royal Mail) and acknowledges the requirement to ensure that major road users are not disrupted through full consultation at the appropriate time in the DCO and development process.

Royal Mail is able to supply the applicant with information on its road usage / trips if required.

Should PINS or RiverOak have any queries in relation to the above then in the first instance please contact Holly Trotman (holly.trotman@royalmail.com) of Royal Mail's Legal Services Team or Daniel Parry-Jones (daniel.parry-jones@bnpparibas.com) of BNP Paribas Real Estate.

From: [Planning Developments](#)
To: [Environmental Services](#)
Cc: [Planning Developments](#); [Steve Carpenter](#)
Subject: Manston Airport Development
Date: 23 July 2016 12:14:22

Dear Dr Richard Hunt,

We have received a letter from the planning inspectorate ([your ref 160701_TR020002_16746180](#)) regarding the proposed development of the Manston Airport from its' former commercial passenger status to a use as a commercial freight terminal.

We consider that this will not have any effect on our emergency cover provision in the area, though consultation would be welcomed in terms of major incident planning, as the airport becoming operational again would represent a requirement from us to be able to respond to it as such in the case of a major incident being declared, etc.

Kind Regards

Steve Elliott
Operational Support Manager - East
SOUTH EAST COAST AMBULANCE SERVICE NHS FOUNDATION TRUST
Mobile : 07748 321199
steve.elliott@secamb.nhs.uk

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Date: 29 July 2016
Your Ref: 160701_TR020002_16746180
Direct Dial: 01843 577752
E.mail: iain.livingstone@thanet.gov.uk



Dr Richard Hunt
The Planning Inspectorate
Temple Quay House
Bristol
BS1 6PN

Dear Dr Hunt,

Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) – Regulations 8 and 9

Application by RiverOak Investment Corp LLC for an Order Granting Development Consent for Manston Airport

Thank you for your consulting Thanet District Council on the Scoping Report for the proposed Development Consent Order for Manston Airport.

Thanet District Council welcomes the opportunity to provide comments at an early stage in the project. These will cover the scoping report but will also discuss the basis of the project and other matters that the Council consider relevant to raise at this time. This response has therefore been copied to the case officer at the Planning Inspectorate. We will not outline the scope of issues as outlined in the scoping report, but we will comment on the adequacy of the proposed assessment of the environmental effects within the scoping report.

Basis for the project

The Council is concerned about the lack of information currently available regarding how the projected increase in air transport movements of cargo aircraft by 10,000 would occur. No proposed delivery strategy for the project, long term business plan showing involvement of operators or investors, or general financial information proving that this is a viable long term prospect has been provided. Without this information, it is difficult to assess the capability of the project to be delivered. This information should be provided at an early stage in the Nationally Significant Infrastructure Project (NSIP) process. The Council expects the Planning Inspectorate to carry out due diligence on the project to ensure that adequate information is available at the earliest possible opportunity, prior to formal submission.

Scoping Report

Requirement for an Environmental Impact Assessment

The scoping report states that the proposed development falls with Schedule 2 10(e) 'Construction of airfields (unless included in Schedule 1).' With reference to Schedule

1, part 7(a) therein includes 'airports with a basic runway length of 2,100 metres or more.' Paragraph 2.3.3. of the Scoping Report states that the airport runway is 2,748m in length therefore appearing to qualify as a Schedule 1 development automatically requiring Environmental Impact Assessment (EIA). Whilst this becomes somewhat academic given the applicants intention to voluntarily submit an Environmental Statement (ES) reference to Schedule 2 10(e) would be procedurally incorrect if the development is as identified as a Schedule 1 development. It is recommended that this is drawn to the attention of the applicant who should satisfy themselves as to the correct classification of the development proposals.

Overall approach to Environmental Statement Scoping

Concerns are raised regarding the temporal scope of the proposed assessment within the ES. Paragraph 4.2.2. states:

"The assessment of potentially significant effects rising from the decommissioning of the airport have been scoped out of this assessment as it is considered that the airport will be operational long into the future, and that therefore there will be no requirement for decommission of the airport."

It is acknowledged that the further into the future any assessment is made, the less reliance may be placed on the outcome. Whilst the aspirations of the applicant is for it to operate long into the future the purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption and safeguarding of the environment. It is therefore considered that the process and methods of decommissioning should be considered and options presented in the ES.

Notwithstanding the above the overall scope of the ES proposed for the construction and operational stages of the development are generally comprehensive albeit the inclusion of a scoping matrix would have assisted with demonstrating that the full breadth of possible likely significant effects had been considered and identified and is considered best practice. The general approach suggested appears acceptable and in accordance with best practice guidance with exception of the inclusion of a scoping matrix.

Consideration of Alternatives

Whilst the approach outlined is generally compliant with the EIA requirements, there is a lack of detail on what will be included with the scope of these alternatives. It is however considered that as there is a live planning application on the proposed site for an alternative housing and employment led development the 'do nothing' scenarios should include both the site existing as at present and the prospect of its development as proposed in the live application on the site. This is considered particularly relevant given Riveroak Investments do not own the site.

Cumulative impacts

A review of the proposed combined and cumulative effects assessment for the EIA identifies that it complies with PINS Advice Notes 9 & 17. PINS Advice Note 17 sets out a four step process for the identification and assessment of cumulative effects in EIA. Stage one of the four part process has been completed in the Scoping report and includes establishing the NSIP Zone of Influence (ZOI) and identifying a long list of other developments within the ZOI.

The spatial ZOI's for all topics except air quality and ecology appear appropriate. However, it is advised that the Spatial ZOI for considering cumulative impacts for air quality and ecological impacts related to air quality is extended to 15km as is common practice for airport developments. Whilst the ZOI for these topics should be extended it should be expected that only major developments with the potential for cumulative air quality effects with the proposed development are considered.

The long list of other developments corresponding to the ZOI's identified may need to be subsequently revised to reflect the increased ZOI. Stage two of the process requires the applicant to develop a shortlist of 'other development' for by applying inclusion/exclusion criteria to the Stage 1 list of 'other development'. The criteria proposed by the applicant relates to the exclusion of sites which do not meet the criteria of 'major development'. Given the strategic scale of the project this is considered to be reasonable.

Air Quality

Particular focus must be had on areas of existing poor air quality such as St Lawrence and The Square Birchington within the air quality assessment. Within the assessment work there should be no assumptions that future improvements in emissions factors should be factored into modelled predictions, and model verification should use average of the last five years local monitoring data. Thanet Air Quality and Planning Guidance 2016 must be taken into consideration in relation to trip generation and emission mitigation / offsetting measures.

The following issue is not proposed for further investigation:

- Odour associated with the operation of the airport.

Whilst it is recognised by the applicant that airports can give rise to odour nuisance it is proposed to exclude such an assessment from the EIA on the basis that there is an apparent absence of a generally accepted methodology and the report the technical difficulties stated as being experienced by Stansted Airport in producing reliable assessments. It is agreed that there is no accepted methodology for assessing the effect of odour impacts from airport operation (such as aviation fuel) but it must be considered given the potential for nuisance to nearby receptors. Numerous other UK airports have produced odour assessments including Farnborough and London City Airport. Therefore further evidence justifying the exclusion of odour from the assessment would be required if this is to be excluded from the scope of the EIA. This could include demonstration of the location of likely odour generating sources, the prevailing wind direction and the proximity of receptors. The location of potential odour generating sources within the airport may minimise the potential for any future odour effects occurring.

There is no reference within the proposed scope of the assessment to CO2 emissions and climate change. The consideration of climate change within EIA is now considered best practice and given the scale of the proposed development the Council may consider that an CO2 assessment should be included as part of the air quality assessment to assess the impact of the proposals on the regions and the UK's carbon budget. Such consideration can lead to consideration to the inclusion of energy efficient technology and commitment to an Environmental Management Plan to monitor and assess the ongoing carbon footprint.

Biodiversity

From the Council's assessment it is considered that the proposed scope of the ecological assessment is sufficient to assess the likely significant effects of the proposed development. It should however be request that the assessment cross-references and draws on the other relevant assessments in the EIA when concluding the significance of indirect effects i.e. nitrogen deposition and water discharge into European sites. Also Natural England are key consultees and their expertise should be relied upon.

Ground and Surface Water

The proposed scope of assessment for the ground and surface water assessment appears comprehensive, however the Environment Agency, Kent County Council (KCC) and Southern Water are key consultees and their expertise should be relied upon.

Historic Environment

It is anticipated that KCC will require non-intrusive and intrusive ground investigations (geophysical survey and trial trenching) to be undertaken and their results included within the EIA. Subject to the above and in consultation with KCC and Historic England, the proposed scope appears comprehensive and we have no further comments to make.

Land quality

The EIA should consider all potential sources of contamination associated with the former airport/military uses. A Phase 1 contamination survey is reported to have been commissioned but it is not known whether this has been completed. The Phase 1 has not been supplied as part of the Scoping Report.

This department understands that the applicant will request access to the site to undertake a site walkover survey. This will be required to inform the Phase 1 Land Quality Assessment.

The scoping opinion states that it is likely that the proposed Phase 1 Assessment will conclude that intrusive work be carried out following the granting of the DCO. Without access to the Phase 1 report it is not possible to conclude whether this is sufficient and a degree of caution must be considered given the sensitivity of the bedrock below. While not stated in this section of the Scoping Report, Table 7.3 in Section 7 states:

'The fuel station to the south east of the site is known to be an issue and there are probably groundwater and land contamination issues with that site associated with historical activity and spills ...the closest Southern Water source is mixed to treat for nitrate pollution, and there have been issues in the past with hydrocarbons and solvents.'

A degree of caution is therefore advised in allowing soil sampling to be deferred to post consent of the DCO particularly without knowing the construction methods proposed. The Environment Agency is the key consultee and their expertise should be relied upon. However, the proposed approach raises concern given the current lack of detail to justify the approach.

In general, where necessary approved remediation must be undertaken to ensure the redevelopment will not represent an unacceptable risk to future/adjacent site users or the environment, including vulnerable groundwater receptors.

Impacts on land quality and underlying groundwater resources from future proposed site uses, including any breaking of aircraft, are a material planning consideration and should be considered as part of the EIA for the operational phase of the development. Appropriate safeguarding measures must be incorporated at the design stage to inform the viability of the development.

At page 9.6.10, the report scopes out potential effects from contaminated soil or buried animals on construction workers during works due to appropriate use of Personal Protective Equipment. Given the potential presence of Polychlorinated biphenyl (PCBs) from substation buildings and/or contaminants associated with former military uses (e.g. weapons/explosives), potential effects on construction workers should be further assessed.

It is agreed that the effects outlined as unlikely to be significant have existing standard and proven mitigation measures to prevent the risk of these effects occurring, but a commitment to such measures should be stipulated through a Construction Environmental Management Plan (CEMP) (see 'General comments' section of this letter).

Landscape and Visual impact

A 5km study area is proposed around the development boundary to assess likely significant effects on landscape and visual receptors. Whilst this is likely sufficient this study area should be cross referenced with the Zone of Visual Influence determined during the assessment process and should cross reference with identified historic receptors identified in the heritage assessment that may be outside of this study area for consistency.

There is no reference made within the proposed scope of the landscape assessment to the potential visual and landscape effects associated with airport lighting which can often be extensive. It is recommended that a lighting assessment is undertaken and is assessed in terms of visual impact and amenity within the ES.

Noise and Vibration

Operational noise is a significant concern of the Council, and the impact assessment and significance criteria will need further consideration particularly as guidance used for assessing significance does not correspond well with the aircraft noise; for instance a C-weighted metric is more highly correlated to aircraft noise impact in communities than A-weighted metrics.

The proposed noise assessment makes reference to both the existing baseline conditions and conditions prior to the airport closing. Whilst this will prove a useful comparison, in EIA terms the baseline of the site is as existing i.e. a vacant site and not operating as an airport. Notwithstanding this it will be a useful comparison to make but the weight given to this will be determined by the decision maker.

Construction and fixed noise source assessment criteria and significance are accepted.

Socio-Economic

The assessment of the proposed airfield on the tourism industry within Thanet should be considered with reference to the landscape and visual impact and noise assessments and cross referenced where necessary.

No information on how the total direct job numbers have been calculated is provided, and this reinforces the concerns raised earlier in our comments about the delivery of the project and lack of business plan or similar document.

Overall the proposed assessment methodology is generic but comparable to other socio-economic assessments and we have therefore no comments to make on this. The overall scope of the assessment appears generally comprehensive.

Traffic and Transport

KCC Highways and Transportation are the key consultee and their expertise should be relied upon. Traffic generation from the proposed development will be a key effect particularly with regard to the proposed primary operation of the airport for freight and the vehicle movements associated with the anticipated 2,000 employees generated.

The assessment methodology set out accords with that presented in IEMA's Guideline (1993) and still represents current guidance on the environmental effects of development. Notwithstanding this there appears to be no direct reference to the assessment of operational and junction capacity in the Scoping Report. Whilst this will be recorded in any accompanying Transport Assessment it is common practice for such information to be included with the ES chapter. As case law suggests ES's should not be a paper chase to find information and this should be clearly reported with the ES chapter.

It should be noted that the significance criteria provided relates to the assessment of the environmental effects of traffic i.e. air quality/ecology/severance, such that those environmental impacts are less sensitive to traffic volumes and thereby the 30% threshold is deemed appropriate. However for matters relating to the operational capacity of the highway a 5% threshold is industry practice. This is defined with the IEMA Guidelines.

The Scoping Report does not make this distinction nor does it expressly talk in terms of operational capacity. There is also no reference to the Strategic Road Network and Highways England as would be expected for a development of this size.

It is recommended that an operational capacity assessment is included within the ES chapter and not simply confined to the Transport Assessment. Otherwise, whilst the expertise of KCC should be relied upon, the proposed scope appears comprehensive and we have no further comments to make.

Proposed Structure of ES

The inclusion of 'project need' within the ES is questioned, given the ES is an objective assessment of the environmental effects of a proposal, irrespective of the need, and should avoid promotional material. In accordance with best practice extensive standalone chapters on planning policy are deemed unnecessary additions to ES which are already extensive in size. Relevant policies should be briefly referenced in the topic chapters where required.

General Matters

The Scoping Report has been informed by desk based studies. Complications associated with the ownership of the site have meant that the applicant has been unable to secure access to the site at present to undertake baseline studies with the site boundary. Whilst there is no requirement to undertake baseline site surveys to inform a scoping request a lack of site specific evidence limits the potential for scoping out issues from inclusion in the EIA.

On this basis the proposed scope of the ES is fairly comprehensive. However, there are several instances where potential effects are scoped out of the EIA on the premise that standard mitigation measures exist to negate these effects. Whilst there should be no objection to this in principle it is recommended that a Construction Environmental Management Plan (CEMP) is requested for inclusion within the ES which commits the applicant and any subsequent contractors to implementing these measures and securing the proposed mitigation.

Other Matters

The Council wishes to draw the Inspectorate's attention to the attached Cabinet report (Annex A) regarding the Council's previous contact with the applicant about the site for information.

It is our understanding that consultation is currently underway with a number of public events around the District. It is noted that no contact has been made with the Council by the applicant regarding any proposed Statement of Community consultation, to agree how the applicant proposes to consult the local community about their proposals and then carry out consultation. This is a requirement of the NSIP process, and it is important that the Council are involved in developing plans for consultation. It is therefore assumed that the current consultation is separate to the requirements under the Planning Act.

The Council would expect the applicant to enter into a Planning Performance Agreement with the Council and Kent County Council to ensure that adequate resources for handling the pre-application process and subsequent NSIP are available and to encourage joint working between the applicant and statutory consultees.

These comments are made without prejudice to the Council's formal position on the Development Consent Order pre-application or application process.

Yours sincerely



Iain Livingstone
Planning Applications Manager

Cc Susannah Guest, Planning Inspectorate

REVIEW OF CPO INDEMNITY PARTNER FOR MANSTON AIRPORT

To: **Extraordinary Cabinet – 29th October 2015**

Main Portfolio Area: **Leader of the Council**

By: **Director of Corporate Governance**

Classification: **Unrestricted**

Ward: **All**

Summary: **To update Cabinet on the review of the appointment of a CPO indemnity partner for Manston Airport.**

For Decision

1.0 Introduction and Background

1.1 At the beginning of this report, it is worth setting out the main objective in seeking an indemnity partner. In the report to Council of the 11th December 2014, it said:

'The objective of seeking an indemnity partner is to ensure that – if the Council determines to pursue a CPO – a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.'

1.2 On the 11th December 2014 Cabinet received a report on the soft-market testing exercise for an indemnity partner for a Manston Airport CPO. The report said that the Council had made every effort to work constructively with (RiverOak) including making several deadline extensions for submitting the information requested from the potential indemnity partner. The report and minute are attached as Annex 1 and Annex 2, respectively.

1.3 The Cabinet considered the following as relevant considerations, which remain relevant today:

- (a) The objective of seeking an indemnity partner (set out at 1.1 above).
- (b) The new owners intend to bring forward regeneration policies for the site.
- (c) The new ownership of the site and any proposals put forward would make it much more challenging to demonstrate an overwhelming case for compulsory purchase. It is important that the Council establishes on objective grounds, the financial status of any partner. The assessment must have due regard to the potential scale of the project and the need to demonstrate that resources are available to complete it.
- (d) Any indemnity partner needs to demonstrate the resources to acquire by private treaty well before the stage of seeking a CPO.
- (e) The experience in other local authorities emphasises the need to ensure a prospective indemnity partner has the resources in place to acquire the site and complete the development. Once the land transfers to the indemnity partner any redress for delay or non-completion could prove difficult to pursue. The main

purpose of the CPO is for the authority to achieve a viable development, so the status of the indemnity partner to deliver the development in its entirety is highly relevant.

1.4 On the 14th July 2015, Cabinet agreed:

1. The recommendation from Council on the 21st May 2015 to review its position in relation to the Manston Airport site, taking account of all the surrounding circumstances relating to an indemnity partner for a possible Compulsory Purchase Order;
2. To authorise that specialist legal and finance advice be obtained to determine whether RiverOak are a suitable indemnity partner in relation to a CPO for Manston Airport and to provide advice on the indemnity agreement and CPO process generally.

2.0 RiverOak

- 2.1 On their website, RiverOak Investment Corp describe themselves as 'having a reputation for identifying under-utilised assets & creating new value from them on behalf of our client investors'. A new company RiverOak Aviation Associates has been set up to deliver this project (referred to as RiverOak).
- 2.2 The proposal from RiverOak is that they will fund the legal CPO process but will not themselves be funding the purchase of the land or the development of the airport. These legal CPO costs are not insignificant and it is intended that £2m will be placed in what is known as an escrow account, reserved specifically for these costs.
- 2.3 The funding for the land purchase and development of the airport will instead come from private investors that RiverOak will try to attract to invest in the project. From the documentation so far provided to the Council by RiverOak it appears that those investors will not be investing until after the confirmation of the CPO by the Secretary of State which would be after any inquiry conducted by a planning inspector.
- 2.4 Prior to and during the progress of the CPO the Council should seek to purchase the land by negotiation which can be done in parallel with the CPO process. The Council has no resources itself to buy the land prior to the securing of funding by RiverOak. The Council has seen no evidence that RiverOak have the resources now available to buy the land prior to the confirmation of the CPO.
- 2.5 Counsel has advised that the possibility of a party wanting to sell their land voluntarily to the Council even if the CPO is abandoned would need to be covered in the indemnity agreement to protect the Council. RiverOak have provided no evidence during the negotiations of their ability to cover this eventuality.

3.0 Timeline

June 2015

- 3.1 Following a meeting in May 2015 RiverOak wrote to the Council setting out their position in relation to the CPO and their proposed role as an indemnity partner. RiverOak included their intention to deposit £250,000 in their solicitor's bank account to fund the CPO process. RiverOak also described how that money would be topped up as the scheme progressed.

July 2015

- 3.2 At a meeting with Council representatives on the 3rd July 2015, RiverOak gave a presentation on their proposals for the airport which included the use of the site to recycle 'end of life' aircraft with some cargo and future passenger activity.

Proposals were also made by RiverOak about financing the scheme and the ability of RiverOak to prove that they could resource the CPO, the land purchase and the development of the airport. Those proposals included:

- (a) An 'escrow' account held by RiverOak's lawyers with funding of up to £2m to fund the CPO process. This was welcomed since it addressed the concern raised in the December report about funding the CPO in stages. Once the escrow account was put in funds, then the whole CPO legal process (but not the land acquisition nor airport development) would be funded.
 - (b) RiverOak also proposed to provide a 'letter of credit' from a major European financial institution to cover the costs of land purchase and development of the airport. This meant in the event that RiverOak's third-party investors were unable to make payment on the land purchase, the bank would cover the outstanding amount. This was also welcomed since it addressed the concerns in the December report about the lack of certainty over funding for the land acquisition.
- 3.3 The Cabinet met in July (1.4 above) to agree to review the Council's position in relation to Manston Airport. The Council then instructed Sharpe Pritchard Solicitors who have considerable expertise in CPOs to act for it in negotiations with RiverOak's solicitors. In addition, the Council has also taken advice from a barrister at Landmark Chambers in London who specialises in compulsory purchase. For the sake of brevity, in the rest of the report, references to 'RiverOak' or the 'Council' include RiverOak's solicitors and the Council's solicitors.
- 3.4 Having reviewed the draft indemnity agreement provided by RiverOak, the Council asked them for an up to date business plan for their proposals. The business plan was required to give the Council an understanding of how RiverOak's current proposals met the public interest test which the Council needed to consider before entering into the indemnity agreement.
- 3.5 RiverOak subsequently informed the Council that they would not now be providing their proposed legally binding letter of credit from a bank. So the funding in relation to the costs of the land acquisition reverted back to its December 2014 position. That is, that there is no provision for funding any shortfall from RiverOak or its investors in respect of the monies required to acquire the site. Instead, RiverOak offered to provide a non-binding letter of assurance from a major financial institution.
- 3.6 In response to the request for an up to date business plan, RiverOak referred the Council back to the financial projections previously provided and declined to provide a business plan indicating that this would be provided once the CPO process was underway. This meant that the Council was being asked to enter into an indemnity agreement for the reopening of the airport with no up to date information on the business plan supporting the scheme.

August 2015

- 3.7 RiverOak informed the Council that their next stage in the process was to develop the business plan in detail.

- 3.8 In substitution for the letter of credit, a letter of support was provided by RiverOak. It was a 'subject to contract' letter from a large American financial services company which 'supported' the efforts of RiverOak regarding the opening and development of Manston Airport following a successful CPO. However, the letter says that it is not a 'binding legal commitment' to the project and that 'any investment is subject to confirmation of the CPO for acquisition of the airport site, as well as, usual and customary funding terms and internal approvals'.
- 3.9 Whilst the letter was from a company with a business history of ownership and management of airports, the letter is not legally binding and there is no indication that any investment will be made before the CPO is confirmed and, therefore, for the purpose of providing assurance that finances will be available for acquisition of the land before the CPO is confirmed, it is of little value.
- 3.10 The Council therefore requested RiverOak to provide the financial guarantees (if any) which they would be providing to secure the council's interests in delivering a viable airport operation as quickly as is reasonably possible without any residual cost to the Council. A deadline of the 14th August was given for RiverOak to provide this information.
- 3.11 The Council's legal advice on this point is clear. Whilst funding does not have to be secured at the outset of the CPO process, the Council does have to satisfy itself that there is a real prospect that the scheme will proceed and this means that the Council needs to consider scheme viability and/or funding before making the CPO. At this stage the Council did not have confidence in the finances (which were based solely on the letter of support from the American company) and no written evidence of RiverOak's current proposals for the airport.
- 3.12 The Council then received confirmation from Riveroak that they had placed £1,325,000 with their lawyers which it is intended to be put into the escrow account should the indemnity agreement be entered into. It is worth repeating that this was a positive step forward from the December position where the CPO legal process was to be completed in steps as funds allowed.
- 3.13 On the deadline of the 14th August 2015, RiverOak provided two redacted letters from potential investors (with the details of those investors removed). As with the letter from the company referred to above, the letters expressed strong interest in participating in RiverOak's acquisition of the airport through a CPO. One letter of support was conditional on the CPO process being concluded in a manner satisfactory to RiverOak and its partners. The other potential investor said they were in a position to invest up to £20m subject to satisfactory final documentation. Their final investment decision was conditional 'upon standard commercial due diligence, valuation of the asset and confirmation of the CPO by the secretary of State'.
- 3.14 Since the letters had the details of the authors removed, the Council has been unable to carry out any investigation into the authors of these letters. Counsel has advised that if we knew who the letters were from and could check their bona fides, the redacted letters could have greater weight.
- 3.15 Counsel has advised that the three letters from potential investors by themselves are not sufficient for the council to be satisfied as to the resourcing of the CPO and the likelihood of the scheme going ahead. The letters are of some evidential value but do not by themselves show that all the necessary resources are likely to be available to complete the scheme.

- 3.16 Counsel has pointed out that the letters do not require either the American company or the two investors to fund the CPO if RiverOak were unable to do so. A bond or escrow account or other form of guarantee if sufficient to cover the land acquisition costs and to enable delivery of the project would provide reassurance to the Council. However, the Council would still have to be satisfied that £20m was an accurate figure for land acquisition and start-up costs.
- 3.17 RiverOak referred to a bond in the original draft of their draft indemnity agreement. The Council requested details of this bond with a deadline of the 18th August 2015; the response from RiverOak was that discussion of the bond was somewhat premature.
- 3.18 Counsel advised that the requirement for a bond relates to the financial strength of the indemnity partner and the extent to which they can satisfy the Council that they can resource the CPO. Where there is a concern over the resources of an indemnity partner then a bond or other security would be a sensible way to proceed. It is not necessary for the bond or surety provider to be a party to the indemnity agreement but the Council would have to be satisfied as to the enforceability of the bond or surety before any indemnity agreement was finalised.

September 2015

- 3.19 Representatives from RiverOak and the Council and their respective solicitors met to discuss outstanding issues. The agenda included what has changed since the December Cabinet report; evidence of financial resources for underwriting the CPO costs, land acquisition and scheme costs; the business plan and viability of the scheme; the public interest test; contractual commitment to proceed with the scheme if the land is acquired.
- 3.20 Prior to the meeting, RiverOak were informed that the Council would need all necessary information to be able to draw up a report to Cabinet which evidences that all the necessary resources/funding will be available when required to fund the CPO process, the land acquisition and the implementation and on-going airport operation, of the airport scheme as proposed by RiverOak.
- 3.21 The action points from the meeting were:
- a) Explanatory note covering compliance with the tests outlined in Circular 06/2004 to be drafted by RO and issued to TDC as soon as possible and in any event before 30 September 2015.
 - b) CPO Indemnity Agreement to be reviewed by TDC's legal advisors and comments issued to RO as soon as possible and in any event before 30 September 2015.
- 3.22 Compliance with the tests in Circular 06/2004 was described in the minutes of the meeting as:
- 'TDC being able to satisfy itself and show at a public inquiry that the tests in CPO Circular could be met before the Council agreed to use its CPO powers. In order to do so, TDC requested an overall picture of how the financial resources will be put together from start to finish and how the public interest test under the Circular would be satisfied. For the purposes of accurate, clear and confident reporting within TDC and in order to fully address all points raised by TDC in respect of funding and public interest issues, a request was made of RO to demonstrate how the proposed scheme would match the requirements of the Circular both in terms of resources and the public interest test in promoting the CPO.'

- 3.23 The time limit for the actions after the September meeting (3.21 above) was amended at RiverOak's request to the 22nd September (and then the 23rd September) when it was agreed that our respective documents would be exchanged. The Council provided its documents on the 23rd with RiverOak providing theirs on the 24th September.
- 3.24 In accordance with the action point from the meeting, the Council reviewed the CPO indemnity agreement and proposed amendments to Riveroak. It was proposed to amend the bond so that it secured that funding was in place to acquire the land prior to the confirmation of the CPO by the Secretary of State. RiverOak's position was that a bond would only be available after the confirmation of the CPO.
- 3.25 Another proposed amendment was a requirement for RiverOak to request the Council to acquire the land within a set period after the confirmation of the CPO. This is because in the absence of any other agreement requiring Riveroak to proceed expeditiously with the reopening of the Airport, the Council had to impose an obligation on Riveroak to not delay the revival of operations at the Airport. The Council could not permit the Airport land sitting under the shadow of an unexercised CPO with nothing happening on the ground.
- 3.26 These two provisions were intended to secure the Council's interests in ensuring that the airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.
- 3.27 RiverOak did not agree with the amendment to the timing of the provision of the bond and subsequently publicly announced on the 11th October 2015 'We want to be perfectly clear, as we have in the past, we will not provide a bond. It is neither economically nor commercially viable to do so and is absolutely not required by the governing law'.
- 3.28 RiverOak have argued that providing funding for the project, for which the CPO is required, post consent is the usual order of events in an infrastructure project, and is not something that is unique to RiverOak. In support of this contention, they cite Hinkley Point C, Crossrail, HS1, HS2, all of which they say were/are to be funded post consent. The difference with any Manston Airport CPO is that the projects referred to by RiverOak were/are backed by Central Government whereas the Council has no resources to back the Manston CPO, which is why it requires a bond or other surety in place to cover the period from when the CPO is made.
- 3.29 With respect to the need to acquire the land within a set period after confirmation of the CPO, RiverOak said that they would need time after confirmation of the CPO to secure and document the funding for the project. Given that the CPO process might take up to two years before the CPO is confirmed by the Secretary of State, RiverOak could then take up to 3 years to obtain the funding, this could see the airport lying dormant for potentially five years if there is no obligation on RiverOak to secure its funding within a set period of the confirmation.
- 3.30 RiverOak provided an explanatory note as agreed in the action point from the September meeting. However, at that time it did not provide the picture of the overall financial framework as agreed and nor did it explain how RiverOak's proposals met the public interest test of Circular 06/2004.

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3.31 At the end of October, over three weeks after the deadline for providing this information had expired, RiverOak provided a revised version of their explanatory note (3.28 above). The document sought to address the public interest test and, as part of this, the other tests that needed to be satisfied; the planning test, the wellbeing test, the financial test and the necessity test. The paper however lacks detailed evidence which it is suggested will be provided in the future and suggests that Council officers are better placed than RiverOak to comment on whether the planning and well-being tests are met. In the absence of an up to date business plan it is difficult to assess that all the tests will be met. The information that has been provided to seek to satisfy the finance test is covered in this report already and the necessity test is based upon the decision of the present owners not to reopen the airport and that therefore the CPO is required to bring back airport use. However, this assertion by RiverOak as to why the CPO is required has to be balanced against the intentions of the current landowners and whether there is any likelihood that the current landowners' proposed use of the site would also satisfy the public interest test.

4.0 The Indemnity Agreement and CPO Powers

4.1 RiverOak have sought to separate the decision on whether to enter into an indemnity agreement from the decision whether the Council should use its CPO powers in relation to Manston airport. Counsel's advice is that there is no particular justification for seeking to take a decision to enter into an indemnity agreement separate from the consideration of whether to make a CPO in support of a particular scheme.

4.2 RiverOak has not provided sufficient evidence to show the Council that the funding available to deliver the scheme is currently available or likely to be available to deliver the scheme. Information has been provided that sets out RiverOak's funding intentions but it depends on the CPO being confirmed, and there is little clarity as to the funding in place. In relation to the public interest balancing exercise, that requires a balanced view to be taken as between the intentions of the Council in making the CPO to deliver the underlying scheme, and the interests and intentions of the current landowners. The Council considers it sensible to consider the question of entering an indemnity agreement with RiverOak (and its principal terms) alongside the principle of making a CPO, which requires the Council to be satisfied that there is a real prospect of the underlying scheme going ahead.

4.3 RiverOak have had many opportunities to provide this evidence and the Council has itself requested this evidence. In the meeting with RiverOak in July their presentation was provided on flip charts which were taken away after the meeting. In August the request for an up to date business plan was refused. In September despite it being agreed that the finances and public interest argument would match the requirements of Circular 06/2004 the expected level of evidence and explanation was not provided.

4.4. In relation to finances generally, the figures for the scheme have not been justified to the Council and the Council has not been given an opportunity to satisfy itself that those figures are reasonable. The mechanism through which that investment would occur has not to date been explained or what role RiverOak would have in delivering the project.

4.5 In relation to specifics of the funding. An offered letter of credit was subsequently withdrawn. A bond to cover any shortfall in funding was also offered and then withdrawn.

5.0 Changes since the December 2014 Cabinet Decision

- 5.1 The main material change since the December 2014 Cabinet decision is the provision of an escrow account which will guarantee the funding of the CPO process. This is welcomed and means that the CPO process can be run at no cost to the authority as a whole process rather than the step-approach as originally proposed.
- 5.2 However the purpose of the Council using its CPO powers is not to run a CPO process, but to ensure that a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council. In order to do that, both the land acquisition and airport development, will need to be funded.
- 5.3 The only evidence to support other funding are two non-binding, conditional and redacted letters of support and a similar letter of support from an American company. There is uncertainty about how any shortfall in funding will be met and indeed the offer of a bond at any stage of the CPO process now appears to have been withdrawn by RiverOak (as per paragraph 3.27 above).
- 5.4 Counsel has advised that it is reasonable for the Council at the stage of deciding the principle of the CPO to seek evidence that it is likely that the key resource and financial tests are fulfilled. If not, it would be very difficult to move forward unless the Council has a high degree of confidence that these matters would be addressed shortly.
- 5.5 RiverOak's track record of failing to provide necessary information throughout the process dents this required confidence. This also begs the question as to why the Council should progress, before receiving the necessary assurances. There seems little purpose in entering into an indemnity agreement separate from taking a decision on the principle of the CPO which requires consideration of the likelihood of the scheme progressing as part of the necessary public interest test.

6.0 Conclusion

- 6.1 The objective of seeking an indemnity partner is to ensure that – if the Council determines to pursue a CPO – a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.
- 6.2 The relevant considerations raised in the December 2014 Cabinet report (at paragraph 1.3 above) remain relevant today. In addition the review of this decision since July 2015 has highlighted the following issues:
 - 6.2.1 There remains the lack of evidence that financial resources are in place or proposed to be in place to acquire the land prior to the confirmation of the CPO despite the fact that the Council is obliged to attempt to purchase the land by negotiation in parallel with the CPO process.
 - 6.2.2 Whilst letters of support for the project have been provided by potential investors, any commitment to the project has been caveated and, in the absence of any binding commitment, there is limited evidence of the financial resources proposed to be in place to acquire the land and develop the airport scheme after the confirmation of the CPO and the evidence is not sufficient for the council to be satisfied as to the resourcing of the CPO and the likelihood of the scheme going ahead.
 - 6.2.3 RiverOak's public announcement indicates that no bond or surety will be offered to fund any shortfall for the proposed funding either before or after the confirmation of the CPO. A bond is required both before and after confirmation.
 - 6.2.4 There is insufficient evidence currently available for the Cabinet to be satisfied that a proposed CPO is likely to be successful which would justify its entering into an

indemnity agreement. There is good reason to consider the principle of the CPO alongside the decision to enter an indemnity agreement.

- 6.3 Given the above, your legal advisors and officers are not satisfied at this moment in time that the information or assurances provided to date by RiverOak justify the Council deciding to make a CPO or as part of that process to support the appointment of RiverOak as the Council's indemnity partner in advance of deciding whether to make a CPO.

7.0 Corporate Implications

7.1 Financial and VAT

- 7.1.1 There are no resources currently available to fund costs in relation to a CPO described in this report. The financial context is of limited financial capacity of the Council, together with the prospect of continued severe financial constraint. Any proposals that involve exposing the Council to unspecified and/or unknown costs would substantially increase financial risks and potentially undermine the Medium Term Financial Strategy. It is therefore the Council's objective to secure that all costs related to the CPO are borne by the indemnity partner.

7.2 Legal

- 7.2.1 The legal advice is set out in the report.

7.3 Corporate

- 7.3.1 There are no direct corporate implications at this stage.

7.4 Equalities

- 7.4.1 There are no direct equality implications.

8.0 Recommendations

- 8.1 Having reviewed its position, details of which are contained in this report, that no further action be taken at the present time on a CPO of Manston Airport, on the basis that RiverOak do not fulfil the requirements of the Council for an indemnity partner;
- 8.2 Cabinet note that this is the second time that RiverOak have not fulfilled the requirements of the Council for an indemnity partner.

9.0 Decision Making Process

- 9.1 This is a non-key decision and subject to call in.
- 9.2 This is a Cabinet decision.

Contact Officer:	Tim Howes, Director of Corporate Governance & Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Cabinet Report 11 December 2014
Annex 2	Cabinet Minutes 11th December 2014

Background Papers

Title	Details of where to access copy
None	N/A

Corporate Consultation Undertaken

Finance	Tim Willis, Director of Corporate Resources
Legal	Tim Howes, Director of Corporate Governance
Communications	Hannah Thorpe, Interim Head of Communications