

Planning Act 2008 – section 91

Application by RiverOak Strategic Partners Ltd for an Order Granting Development Consent for the upgrade and reopening of Manston Airport

Initial Agenda for Issue Specific Hearing 1 dealing with matters relating to the draft Development Consent Order

The Examining Authority (ExA) notified Interested Parties in its letter dated 11 December 2018 of the decision to hold an Issue Specific Hearing on the draft Development Consent Order (dDCO) on the following date:

Hearing	Date and time	Location
Issue Specific Hearing 1 – Draft Development Consent Order	Thursday 10 January 2019 Seating available from 9.30am. The hearing will start at 10.00am	Margate Winter Gardens, Fort Crescent, Margate, CT9 1HX

PLEASE NOTE: A more detailed agenda will be published on the project webpage on the National Infrastructure Planning website no later than 2 January 2019

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them.

The ExA will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by a member of the Panel, supported by other Panel members.

Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including through the inclusion of Written Questions in the course of the Examination.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any hearing, there may be a need to

continue the session for longer on the day or continue the hearing at a subsequent sitting.

Requests to question a person making oral representations directly under s94 of the Planning Act 2008 may be made but cross-questioning of the person giving evidence by another person will only be permitted if the ExA decide it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

All parties should also note that, unless otherwise specified in the final agenda for this hearing, Article 9 - Guarantees in respect of payment of compensation, etc. – and Articles in Part 5 - Powers of Acquisition and Possession – will be examined as part of a Compulsory Acquisition Hearing.

Throughout this hearing, the ExA will be referring to the following documents amongst others:

- **Draft Development Consent Order (APP-006)**
- **Explanatory Memorandum (APP-007)**
- **Register of Environmental Actions and Commitments (APP-010)**
- **Works Plans (APP-018)**
- **Details of other consents and licences that may be required (APP-087)**

References in brackets are the unique document reference numbers in the Examination Library. The Examination Library is published on the project webpage on the National Infrastructure Planning website, here:

<https://infrastructure.planninginspectorate.gov.uk/document/TR020002-002558>

The ExA may also be referring to the following documents, amongst others, which are all available on or via the National Infrastructure Planning website:

- The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
- The Infrastructure Planning (Examination Procedure) Rules 2010
- The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
(above all available on legislation.gov.uk)
- DCLG Planning Act 2008: Guidance for the examination of applications for development consent, March 2015
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance_-_final_for_publication.pdf



The Planning Inspectorate

- DCLG Planning Act 2008: Guidance on associated development applications for major infrastructure projects, April 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/192681/Planning_Act_2008_-_Guidance_on_associated_development_applications_for_major_infrastructure_projects.pdf
- Planning Inspectorate Advice Note Thirteen: Preparation of a draft order granting development consent and explanatory memorandum, Version 2, April 2012
https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/12/Advice_note_13v2_1.pdf
- Planning Inspectorate Advice Note Fifteen: Drafting Development Consent Orders, Version 2, July 2018
https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

Initial Agenda for Issue Specific Hearing 1 on the Draft Development Consent Order

Item	Matters
1.	Introductions
2.	Opening remarks by the Examining Authority (ExA) including consideration of other possible items for the Agenda of the Hearing.
3.	<p>Update on progress with drafting and agreeing Protective Provisions</p> <p>This item will be omitted from the agenda if it has already been dealt with satisfactorily at the Preliminary Meeting held on 9 January 2019.</p>
4.	<p>Overall issues on drafting including:</p> <ul style="list-style-type: none"> a) The need to justify the inclusion of any Article or Requirement in terms of this application rather than in terms of other Development Consent Orders or the Model Provisions. The ExA notes, for example, that such a justification is used in the Explanatory Memorandum (APP-007) in paragraphs 3.10, 3.13, 3.19, 3.43, 3.44, 3.66, 3.72, 3.75, 3.80, 3.94, 3.95, 3.96, 3.99 and 4.3. b) The use of “<i>Secretary of State</i>” as a certifying or approving body, for example in and Articles 6, 9 and 41 and Requirements 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16 and 18. c) The use of the phrase “<i>to the extent that is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement</i>” in Article 2 - Interpretation, definition of “<i>commence</i>” and definition of “<i>maintain</i>” and Schedule 1 – Authorised Development - (p). d) The Applicant should explain the drafting changes necessary as a result of the Housing and Planning Act 2016. e) The Applicant should ensure that the dDCO follows guidance and practice for Statutory Instrument (SI) drafting including, for example avoiding use of the words “<i>may</i>”, “<i>shall</i>”, “<i>should</i>” and “<i>will</i>” and is in the SI template when submitted.
5.	<p>Associated Development</p> <p>The ExA notes that the Explanatory Memorandum (APP-007) states, at 2.10, that:</p> <p><i>“RiverOak has chosen not to differentiate the NSIP and associated development works in Schedule 1 to the Order.”</i></p> <p>The ExA also notes that the document NSIP Justification (APP-008) does identify a list of works at paragraph 44 that:</p>



	<p><i>"are not part of the NSIP itself can be categorised as supporting the operation of the NSIP or addressing its impacts, and are therefore associated development."</i></p> <p>The ExA also notes that there is no definition of <i>"associated development"</i> in the dDCO (APP-006) Schedule 1, Article 2 but the ExA notes that <i>"associated development"</i> is referred to in the definition of <i>"authorised development"</i> and in Schedule 1.</p> <p>The ExA wishes to explore the Applicant's approach to Associated Development.</p>
6.	Limits of Deviation <p>The ExA wishes to explore the Applicant's approach to Limits of Deviation set out in Article 6 of the dDCO (APP-006) and, in particular but not exclusively in Article 6(2).</p>
7.	Discussion on specific parts of the dDCO (APP-006) <ul style="list-style-type: none">• Articles• Requirements• Schedules
8.	Any other relevant business
9.	Close of the Issue Specific Hearing on the dDCO