

CORPORATE RESOURCES

Please ask for: Iain Livingstone
Direct Line: 01843 577140
Date: 31/07/18



Mr Richard Price
National Infrastructure Case Manager
The Planning Inspectorate
3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Dear Mr Price,

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

Adequacy of Consultation Representation

Thank you for your letter dated 17th July 2018 seeking a representation on the adequacy of consultation.

This representation will outline whether Thanet District Council (TDC), as a Section 43 Local Authority under the Planning Act 2008, considers that the applicant has complied with the following duties in relation to the application:

- Duty to consult - Section 42 of the Planning Act 2008
- Duty to consult the local community - Section 47 of Planning Act 2008
- Duty to publicise - Section 48 of the Planning Act 2008.

This representation will be confined to these matters only in accordance with *Advice Note 2: The role of local authorities in the development consent process*. The two identified statutory consultation phases, referred to by the applicant in the Consultation Report (CR) as Stages 2 and 3, will be referred to in this representation as “first statutory consultation” and “second statutory consultation” for clarity. The first statutory consultation is stated by the applicant to be carried out between the 12th June and 23rd July 2017, and the second between 12th January and 16th February 2018.

This representation will not comment on the scope of information provided in the consultation, as it is a matter solely for the Planning Inspectorate to determine whether this was adequate under Environment Impact Regulations 2009 and 2017 and relevant sections of the Planning Act 2008.

Duty to consult - Section 42 of the Planning Act 2008

Section 42 (b) of the Planning Act 2008 states: “*The applicant must consult the following about the proposed application— (b)each local authority that is within section 43*”.

First Statutory Consultation

The Council considers the applicant has complied with section 42(b) in regard to consulting TDC as a Section 43 local authority.

Second Statutory Consultation

The Council considers the applicant has complied with section 42(b) in regard to consulting TDC as a Section 43 local authority.

Duty to consult the local community - Section 47 of the Planning Act 2008

Section 47 (1) of the Planning Act 2008 states: “*The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.*”

First Statutory Consultation

The Council considers the applicant has complied with Section 47(1) of the Planning Act 2008.

Second Statutory Consultation

The Council considers the applicant has complied with Section 47(1) of the Planning Act 2008.

Section 47 (2) of the Planning Act 2008 states “*Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.*”

First Statutory Consultation

The Council considers the applicant has complied with section 47(2) in regard to consulting TDC as a Section 43 local authority about the statement.

Second Statutory Consultation

The Council considers the applicant has complied with section 47(2) in regard to consulting TDC as a Section 43 local authority about the statement.

Section 47(3) of the Planning Act 2008 states “*The deadline for the receipt by the applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.*”

First Statutory Consultation

The Council considers the applicant has complied with section 47(3) in regard to consulting TDC as a Section 43 local authority providing a 28 day deadline for response.

Second Statutory Consultation

The Council considers the applicant has complied with section 47(3) in regard to consulting TDC as a Section 43 local authority providing a 28 day deadline for response

Section 47(5) of the Planning Act 2008 states *“In preparing the statement, the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3)”*.

First Statutory Consultation

The Council considers that the applicant did not have sufficient regard to its comments on the draft Statement of Community Consultation (SOCC) when preparing the final statement. These include:

- All residencies and businesses within 3 kilometres of the airport not consulted by post as requested.
- All residences and business within 1 kilometres of proposed or potential flight paths by leaflet drop or all residencies and businesses within Ramsgate, all Thanet Villages and Herne Bay not consulted.
- Public Consultation not extended to 6 weeks.
- Draft of consultation leaflet, letter, email not included in SOCC.
- Documents not available as HTML on website.
- Only one event hosted in Ramsgate, not the two as requested.
- No information on hard to reach groups provided or who consulted.

Whilst the applicant extended the originally-proposed consultation zone for postal consultation, this covered only 2km from the airport boundary. This is insufficient for the scale and nature of the project, with no justification in the CR about why the 3km distance was not adopted. This meant that a significant proportion of the local community who would be directly or indirectly affected by the project were not directly notified about the consultation (particularly residences in Ramsgate and Thanet Villages)

The comments that all residences and business within 1 kilometres of proposed or potential flight paths should be directly notified (or all residencies and businesses within Ramsgate, all Thanet Villages and Herne Bay if flight paths not known) do not appear to have been taken into account at the time of the consultation. The justification in table 8.1 of the CR implies that newspaper notices posted and the extension of the consultation zone to 2km from the airport boundary was sufficient. Newspaper notices are a separate requirement of Planning Act and do not negate the need for postal consultation directly to residents. As identified above, a significant proportion of residents affected by the impact of the project were not directly notified of the consultation given the chosen 2km zone. It is also noted that within the consultation documents produced within the first statutory consultation, indicative flight path plans were included at Figures 3.32a-d which means that the 1km zone could have been identified by the applicant from the information available.

Therefore the first statutory consultation is not considered to comply with Section 47(5) of the Planning Act 2008.

Second Statutory Consultation

The Council provided comments on the draft SOCC and key comments regarding the lack of any postal consultation were given some regard within the final SOCC. The Council requested an additional consultation event to serve the villages of Thanet (at either Birchington or Minster),

however this did not occur. The justification for how these comments were given regard is in table 11.1 of the CR. This states that “it was decided only to have further events at Herne Bay and Ramsgate, those most affected by aircraft noise and the most popular events at Stage 2”. The Council consider this to be insufficient justification as to why a consultation event to serve the villages, including those affected by noise at Acol, Manston, Minister and other villages in the district, did not occur. Therefore it is unclear whether the applicant has complied with Section 47(5) of the Planning Act 2008 and whether sufficient regard has been had to the Council’s comments.

Section 47(6) of the Planning Act 2008 states “*Once the applicant has prepared the statement, the applicant must publish it— (a)in a newspaper circulating in the vicinity of the land, and (b)in such other manner as may be prescribed.*”

First Statutory Consultation

The Council considers the applicant has complied with section 47(6) from the evidence provided in the CR at Appendix 22.

Second Statutory Consultation

The Council considers the applicant has complied with section 47(6) from the evidence provided in the CR at Appendix 47.

Section 47(7) of the Planning Act 2008 states “*The applicant must carry out consultation in accordance with the proposals set out in the statement.*”

First Statutory Consultation

The published SOCC stated that all residencies within 2km of the Airport boundary were notified by being sent a Consultation Leaflet and Feedback Form, with a map provided at Appendix 2 of that document. This map is not clear in identifying the limits of the consultation due to its scale. Appendix 56 of the CR now shows this consultation zone in more detail, however information is lacking about the procedure for leaflet drop and address list of those notified. It is also noted that discrepancies exist between the commitment’s in the SOCC about when newspaper adverts were to be published and when newspaper advertisement occurred.

Second Statutory Consultation

The applicant’s final SOCC outlines multiple forms of publicity, including contacting all previously interested parties (with an email), engagement with the press, and notification by post with postcards. The CR states at 11.18 that:

“a consultation zone was created consisting of all properties in Ramsgate and Herne Bay, all properties within 3km of the airport boundary, and any other properties under the proposed flightpath swathes of the aircraft that would use the Proposed Development, totalling some 50,000 properties. A postcard was hand delivered to all these properties by a local delivery company engaged by Copper Consultancy, RiverOak’s consultation consultants. The delivery company verified that they had delivered to the properties shown at Appendix 51 (which also contains a copy of the postcard), and as an additional safeguard, whenever Copper Consultancy or RiverOak received notice that anyone had not received a postcard, a redelivery was ordered to the entire street of the address of the person in question. Redeliveries continued on request until the consultation events had taken place.”

Within Appendix 51 of the CR, a copy of the consultation postcard and maps indicated that the areas stated in the SOCC were sent a postcard. However, the Council received reports from residents of both Ramsgate and Herne Bay, stating that they did not receive postcards. A redacted copy of those 15 reported comments are provided at Appendix A, and a list of the roads and areas where residents stated their properties did not receive notifications is below:

- Grange road, Ramsgate
- Nethercourt Hill, Ramsgate
- Nethercourt Farm Road, Ramsgate
- Nethercourt Estate, Ramsgate
- Guildford Lawn, Ramsgate
- Crescent Road, Ramsgate
- Codrington Road, Ramsgate
- Hollicondane Road, Ramsgate
- Effingham Street, Ramsgate
- Herne Bay
- Monkton

This creates uncertainty about whether all residencies in Ramsgate (and indeed Herne Bay outside the district) received a postcard. It is acknowledged that redeliveries are stated to have occurred, however this would only occur when residents of properties became aware of the consultation via other means. Significant concern is therefore raised that those residences not receiving postal notification and not aware of the consultation through other means did not know about the consultation.

The number of properties that are stated to have been notified is over 50,000, with a number of those properties also being engaged by other means (direct email through previous interest in the project). The number of comments received (1,349) amounts to 2.6% of those stated to have been delivered a postcard.

At paragraph 11.28 of the CR, it states that the event attendees came from across all areas of Thanet by virtue of postcodes collected from attendees at the consultation events. However this does not mean that all properties in Ramsgate received postal notification.

Given the issues raised by residents during the consultation about not receiving a notification, which the applicant was aware of, the Council would expect to be provided with evidence that delivery occurred in accordance with the published SOCC. The following information however has not been provided within the the CR:

- the name of the company that carried out the deliveries;
- the tender/contract/instruction for the distribution company;
- the instruction to individual distribution teams;
- the means of quality control/logging completed roads etc;
- copy of the completion report from the distributor company;
- list of roads that redeliveries occurred to and date of those redeliveries.

From the lack of evidence provided by the applicant and the comments of residents, it would appear, on the balance of probabilities, that a number of residences within Ramsgate did not receive notification. The Council is unable to identify how widespread issues were with the delivery.

Therefore the Council are unable to confirm that the applicant has complied with Section 47 (7) of the Planning Act 2008 from the evidence before the Council at this time.

Duty to publicise - Section 48 of the Planning Act 2008.

Section 48 (1) of the Planning Act 2008 states "*The applicant must publicise the proposed application in the prescribed manner*". The 'prescribed manner' is outlined in Regulation 4 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

First Statutory Consultation

The Council considers the applicant has complied with section 48(1) from the evidence provided in the CR.

Second Statutory Consultation

The Council considers the applicant has complied with section 48(1) from the evidence provided in the CR.

Yours sincerely



Iain Livingstone
Planning Applications Manager
Thanet District Council