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RiverOak Strategic Partners  
c/o Angus Walker  
Bircham Dyson Bell  
By email

Your Ref:

Our Ref: TR020002

Date: 14 August 2018

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Dear Mr Walker

## **Planning Act 2008 – Section 51**

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

#### **Advice following issue of decision to accept the application for examination**

On 14 August 2018 the Secretary of State decided to accept the above application for examination.

This letter comprises advice to the Applicant provided under s51 of the Planning Act 2008 (PA2008). It should be read in conjunction with the Manston Airport s55 Acceptance of Applications Checklist (the Checklist) issued alongside the Acceptance decision.

In applying the Acceptance tests to the application documents, the Planning Inspectorate noted some omissions/ discrepancies in the information provided, about which the appointed Examining Authority (ExA) is likely to seek resolution early in the Pre-examination stage.

The Applicant is strongly advised to pay close attention to the content of this letter, and consider carefully how appropriate action might be taken in response to the advice issued within it.

#### **The Funding Statement (Doc 3.2)**

As reflected in Box 30 of the Checklist, the Inspectorate considers that the Funding Statement poses substantial risk to the examination of the application. In respect of this, the Applicant is advised to be fully conversant with statute and guidance contained in The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land.

The issues raised in advice provided by the Inspectorate at the Pre-application stage, in consideration of draft iterations of the Funding Statement provided by the Applicant for review, has only partially been satisfied. On this basis the Inspectorate considers that the following information is very likely to be requested by the appointed ExA early in the Pre-examination stage:

- In the generality, further evidence that adequate funds will be available to enable the Compulsory Acquisition of land and rights within the relevant time period.
- Further information in respect of RiverOak Strategic Partner's (RSP) accounts, shareholders, investors and proof of assets.
- Further clarification in respect of the term "*completion of the DCO*" (Funding Statement para 12, 13, 27).
- Further details of RSP's Directors, staff, auditors etc.
- Further details of the funders who have already expressed interest and others that are likely to come forward (Funding Statement, para 23).
- Further justification as to why Article 9 of the draft DCO is appropriate and provides sufficient security for individuals in consideration of the provisions of the Human Rights Act 1998.
- Further information on the sources and availability of funding for the Noise Mitigation Plan.
- Further information on the joint venture agreement (Funding Statement, para 19 etc).
- Further details of how the costs set out in the Funding Statement at paragraph 15 have been estimated.
- Further evidence to support various statements such as:
  - "*The investors are willing to underwrite the cost of any blight claims or eventual claims in compensation [...]*" (Funding Statement, para 10).
  - "*RiverOak anticipates that it will raise further equity and debt finance following the making of the DCO in order to develop the authorised development to completion*" (Funding Statement, para 11).
  - "*[RiverOak] have drawn down £500,000 from their investors*" (Funding Statement, para 20).

## **The Environmental Statement (Doc 5.2)**

The Applicant has omitted the figures from the Report to Inform the Appropriate Assessment (Doc 5.2-6, Appendix 7.1). The appointed ExA is likely to request for the omitted figures to be provided early in the Pre-examination stage.

Chapter 7 of the Environmental Statement (ES) (Biodiversity) and the Report to Inform the Appropriate Assessment (Doc 5.2-6, Appendix 7.1) reference discussions with Natural England that have arisen since the s42 consultation. The Applicant is advised that the appointed ExA is likely to request, early in the Pre-examination stage, evidence of those subsequent discussions with Natural England and any other statutory body regarding the ecological effects of the Proposed Development that have been undertaken subsequent to the consultation.

The appointed ExA is likely to request for the Applicant to confirm its timeline for the provision of the outstanding ecological survey data required, and to confirm its worst case assessment of ecological effects arising from the Proposed Development and the extent of mitigation required.

The ES and draft DCO (Doc 2.2) provide a similar but inconsistent description of the development footprint within the Northern Grass area eg ES Figure 3.6 (106,125 sq m), ES Volume 1 paragraph 3.3.94 (105,100 sq m) and the draft DCO, Schedule 1 (116,000 sq m). The appointed ExA is likely to seek clarification in respect of this inconsistency, and crucially confirmation about which figure is correct, early in the Pre-examination stage.

The appointed ExA is also likely to request details regarding the proposed dimensions of the "site gatehouse" shown in ES Figure 3.1 and mentioned in Table 11.68 of the ES.

Figure 3.1 of the ES (Doc 5.2-4) refers to the relocation of the existing Ministry of Defence (MoD) aerial, however this is not mentioned in the ES or the draft DCO. The appointed ExA is likely to seek for the Applicant to confirm its intentions for the MoD aerial.

Paragraph 3.1.11 of the Flood Risk Assessment (Doc 5.2.8) and paragraph 6.3.2 of the Transport Assessment (Doc 5.2-15), in providing summaries of the works to be undertaken as part of the Proposed Development, refer to the relocation of the RAF Manston Museum. This is contradicted by paragraph 3.3.104 of the ES which states that the museum will be retained and proposals have been prepared for a new Spitfire and Hurricane Memorial Museum only. This in turn appears to be contradicted by the Planning Statement (Doc 7.2) which states at paragraph 3.85 that the RAF Manston Museum and the Spitfire and Hurricane Memorial Museum will remain on site, with an area of land being safeguarded for these facilities. The appointed ExA is likely to seek for the Applicant to confirm its intentions for the RAF Manston Museum and for the Spitfire and Hurricane Memorial Museum.

### **The Consultation Report (Doc 6.1 and Doc 6.2)**

In respect of s42(1)(a) prescribed persons, it appears on the basis of the information provided by the Applicant that the potentially relevant persons identified in Box 6 of the Checklist were not consulted at the Pre-application stage.

Unless there is a good reason in each case why the Applicant considers that these persons are not relevant to the Proposed Development, the Applicant is advised to include these persons, or their appropriate successors, in its s56 notification exercise or to otherwise proactively draw their attention to the Relevant Representation period.

### **Electronic application documents**

A number of RSP's application documents corrupted during the redaction process undertaken by the Planning Inspectorate prior to publication. This problem has previously been encountered with application documents submitted by other applicants. As an interim solution, those documents have been manually redacted, scanned, and exported to the website. In this format, crucially, the text comprising the documents is not searchable.

The corrupted documents are:

- ES Volume 1: Main Text – Chapters 1-10 (Doc 5.2-1).
- ES Volume 6: Appendices 1.4 – 7.2 (Doc 5.2-6).
- ES volume 7: Appendices 7.3 – 8.1 (2 of 3) (Doc 5.2-7).
- ES Volume 8: Appendices 8.2 – 9.1 Part A (2 of 3) (Doc 5.2-8).
- ES Volume 25: Appendices to the Transport Assessment (2 of 3) (Doc 5.2-25).

By **close of play on Friday 17 August 2018** can the Applicant please provide additional versions of the above documents in order that the Inspectorate may replace the corrupt versions on its website to allow unhindered inspection of their content?

I trust that this advice is useful to you and that it will aid your preparation for the examination of the application. If you have any questions about the content of this letter, please do not hesitate to contact me using the details provided.

Yours sincerely

*Richard Price*

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