

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our ref: KT/2018/124681/01-L01
Your ref: TR020002
Date: 5 October 2018

Dear Sir/Madam

Application for a Development Consent Order for Manston Airport

Please find below our relevant representation for the Development of Manston Airport.

The Role of the Environment Agency

The Environment Agency has responsibility for protecting and improving the environment, as well as contributing to sustainable development.

Our work helps to support a greener economy through protecting and improving the natural environment for beneficial uses, working with businesses to reduce waste and save money, and helping to ensure that the UK economy is ready to cope with climate change. We will facilitate, as appropriate, the development of low carbon sources of energy ensuring people and the environment are properly protected.

We have three main roles:

We are an **environmental regulator** – we take a risk-based approach and target our effort to maintain and improve environmental standards and to minimise unnecessary burdens on business. We issue a range of permits and consents.

We are an **environmental operator** – we are a national organisation that operates locally. We work with people and communities across England to protect and improve the environment in an integrated way. We provide a vital incident response capability.

We are an **environmental advisor** – we compile and assess the best available evidence and use this to report on the state of the environment. We use our own monitoring information and that of others to inform this activity. We provide technical information and advice to national and local governments to support their roles in policy and decision-making.

One of our specific functions is as a Flood Risk Management Authority. We have a general supervisory duty relating to specific flood risk management matters in respect of flood risk arising from Main Rivers or the sea.

Pre-application consultation

RiverOak Strategic Partners Limited (RiverOak), the applicant, approached us in early 2016 to discuss their initial plans and the potential environmental issues that they would need to



address. Since this early contact we have had several meetings. In summer 2016 we provided a formal Scoping Opinion and in June 2017 and early 2018 we provided formal responses to the Section 42/47 consultations.

As explained below, the applicant may need appropriate authorisation from us in the form of an environmental permit or exemption for the waste activities proposed. We recommend 'twin tracking' of the DCO and permitting process to ensure the two regulatory regimes do not overlap or contradict each other. We recommend that the applicant should contact our East Kent Waste Team to discuss their plans on 0208 47 47 450 or via email at KSLEastKentWasteTeam@environment-agency.gov.uk as soon as possible.

We have started to develop a joint Statement of Common Ground (SoCG) with the applicant and will continue to progress this throughout the application process.

Relevant Representation

2.1. Draft Development Consent Order (July 2018)

We request the following changes and additions are made to the Requirements set out in Schedule 2 of the Draft Development Consent Order to ensure a comprehensive approach to addressing possible land contamination and controlled waters risk on the proposed development site.

Requirement 5 (detailed design of fuel depot)

We agree with this requirement as outlined.

Requirement 6 (construction environmental management plan)

We agree with this requirement as outlined.

Requirement 7 (operation environmental management plan)

We request that the following additional items are included regarding the management of fuel storage and transport and in relation to vegetation management using herbicides:

(xii) Fuel storage and transport arrangements

(xiii) Operational use of herbicides to control vegetation

We welcome the overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2) (d) of the DCO.

Requirement 11 (contaminated land and groundwater)

This requirement refers to 'contaminated land'. This is a term with a strict legal definition. We request that the wording of this requirement is amended slightly to reflect this and also expanded to include the full wording of our standard approach to land contamination as outlined with additional wording in (4) and (5) below, changes are highlighted.

11.—(1) In the event that *land affected by contamination*, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the *contamination identified in, on, or under land from detailed site investigations, or as an unexpected discovery*, is necessary,

a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

(3) *Any required and agreed remediation must be carried out in accordance with the scheme approved under sub-paragraph (2).*

(4) *A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.*

(5) *Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.*

Requirement 13 (surface and foul water drainage)

We agree with this requirement as outlined.

Requirement 15 (piling and other intrusive works)

We agree with this requirement as outlined.

2.6 Construction Environmental Management Plan

Section 4.5 on Waste Management states that demolition arisings will be recycled for re-use on site. Waste re-use may require our authorisation.

5.2-1 Environmental Statement

The relevant chapters in the ES covering drainage, groundwater protection and land quality cover the issues we have raised in discussion with the applicant to date in a satisfactory manner for this stage of development.

We acknowledge that the re-use of site won materials are part of sustainable development and support this approach in appropriate circumstances.

A permit will be required from the Environment Agency to import waste material onto site.

Advice for the applicant

We would like to offer the applicant the following advice with regards to the management of waste on site.

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely

- to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The [Environmental regulations](#) page on GOV.UK

Any re-use of excavated materials not undertaken formally using the CLAIRE DoWCoP would require an environmental permit for deposit, unless materials are solely aggregates from virgin sources, or from a fully compliant Quality Protocol aggregates supplier. Any deposit of materials outside of these scenarios could be subject to enforcement actions and/or landfill tax liabilities.

Any waste removed from site must be accompanied by the appropriate duty of care paperwork and transported by an authorised waste carrier to an appropriately authorised facility. Any waste treated or re-used on site will require appropriate authorisation in the form of an environmental permit or exemption. The applicant should contact our East Kent Waste Team to discuss their plans on 0208 47 47 450 or via email at KSLEastKentWasteTeam@environment-agency.gov.uk

We may need to add to or amend the matters set out in this Relevant Representation as further information is provided throughout the examination.

I hope that these comments are helpful in setting out details to be considered during the examination.

Yours faithfully

Mrs Jo Beck
Planning Specialist

Direct dial 0208 474 6713

Direct email kslplanning@environment-agency.gov.uk