

Date: 08 October 2018
Our ref: 257635
Your ref: TR020002



The Planning Inspectorate
Manston Airport NSIP Case Team
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BY EMAIL ONLY

Dear Sir or Madam

**NSIP Reference Name / Code: Manston Airport / Planning Inspectorate Reference TR020002
Natural England's Relevant Representations in respect of Manston Airport**

Thank you for your consultation on the above dated 31 August 2018 which was received by Natural England on the same date.

Summary

Natural England has outstanding concerns around the following areas relevant to our remit:

- **Bird disturbance in relation to designated nature conservation sites**
- **Impacts from surface water discharge in relation to designated nature conservation sites**
- **Air quality impacts in relation to designated nature conservation sites**
- **Impacts on European Protected Species (EPS) - bats**

1. Introduction

1.1. Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 ('NERC Act'). Natural England is the statutory advisor to government on nature conservation in England and promotes the conservation of England's wildlife and natural features¹.

1.2. Natural England is a statutory consultee:

1.2.1. in respect of environmental information submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regs')²;

1.2.2. in respect of plans or projects that are subject to the requirements of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') which are likely to

¹ NERC Act ss. 1(2), 2 and 4

² Regs. 3(1), 10(6), 11(1), 16(2)(b), 20(3)(g), 22(3)(f), 24(5)(f) of the EIA Regs

have a significant effect on European protected sites – that is, sites designated as Special Areas of Conservation ('SACs') and Special Protection Areas ('SPAs') for the purposes of the EU Habitats and Birds Directives³;

- 1.2.3. in respect of proposals likely to damage any of the flora, fauna or geological or physiological features for which a Site of Special Scientific Interest ('SSSI') has been notified pursuant to the Wildlife and Countryside Act 1981 (the '1981 Act')⁴; and
- 1.2.4. in respect of all applications for consent for Nationally Significant Infrastructure Projects which are likely to affect land in England⁵.
- 1.3. It is also the Government's policy to consult Natural England in respect of sites listed for the purposes of the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2 January 1971 ('Ramsar sites') as if they were European protected sites⁶.
- 1.4. In determining this application, the Secretary of State will be acting as the competent authority for the purposes of the Habitats Regulations. The Secretary of State is also a section 28G authority with specific duties under the 1981 Wildlife and Countryside Act in respect of SSSIs.
- 1.5. Natural England's advice in these relevant representations is based on information submitted by RiverOak Strategic Partners Limited in support of its application for a Development Consent Order ('DCO') in relation to Manston Airport. The project refers to the upgrading and re-opening of Manston, primarily as a cargo airport, with some passenger services, with a capacity of at least 10,000 air cargo movements per year.
- 1.6. Natural England has been working closely with RiverOak Strategic Partners Limited to provide advice and guidance since 26 April 2016. 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.
- 1.7. These relevant representations contain a summary of what Natural England considers the main nature conservation issues⁷ to be in relation to the DCO application, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.
- 1.8. These representations provide an overview of the issues and a summary of Natural England's advice. Section 2 identifies the natural features relevant to this application. Section 3 summarises Natural England's overall view of the application. Section 4 sets out the main issues which we consider need to be addressed by the Secretary of State and Section 5 summarises the additional information which we believe is required to do this. This primarily relates to areas where further work is required to determine the effects of the project and to flesh

³ Regulation 63 of the Habitats Regulations

⁴ Section 28E(1) of the 1981 Act

⁵ Planning Act s.42; Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, reg. 3 and sch. 1.

⁶ National Planning Policy Framework (July 2018), para 176; PINS Advice Note 10: Habitats Regulation Assessment for nationally significant infrastructure projects, p.3.

⁷ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

out mitigation and compensation proposals (where required) to provide a sufficient degree of confidence as to their efficacy. Sections 6 and 7 relate directly to the DCO.

- 1.9. Natural England will continue discussions with RiverOak Strategic Partners Limited to seek to resolve these concerns through the provision of further information and/or assessment and will agree any outstanding matters in a joint SoCG. Failing satisfactory agreement, Natural England advises that the matters set out in sections 4 to 7 will require consideration by the Examining Authority as part of the examination process.
- 1.10. The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

2. The natural features potentially affected by this application

2.1. The designated sites relevant to this application are:

2.1.1. **European designated sites** – Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites. The following sites and interest features are those which may be affected by the proposed project for which Natural England has outstanding concerns:

Site Name	Distance from Project Site (indicative)	Features for which Outstanding Concerns Remain
Thanet Coast and Sandwich Bay SPA	0km South-east (outfall only) – main airport site ~ 1km	European golden plover (<i>Pluvialis apricaria</i>) (Non-breeding) Ruddy turnstone (<i>Arenaria interpres</i>) (Non-breeding) Little tern (<i>Sterna albifrons</i>) (Breeding) (Not currently present)
Thanet Coast and Sandwich Bay Ramsar	0km South-east (outfall only) – main airport site ~ 1km	Ramsar criterion 2: supports 15 British Red Data Book wetland invertebrates. Ramsar criterion 6 – Qualifying Species/populations (as identified at designation): species with peak counts in winter: Ruddy turnstone (<i>Arenaria interpres</i>).
Sandwich Bay SAC	0km South-east (outfall only) – main airport site ~ 1km	Embryonic shifting dunes Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes"); Shifting dunes with marram Fixed dunes with herbaceous vegetation ("grey dunes"); Dune grassland

		Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>); Dunes with creeping willow Humid dune slacks
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2.1.2. **Nationally designated sites** – Sites of Special Scientific Interest (SSSIs). The following sites and interest features are those which may be affected by the proposed project for which Natural England has outstanding concerns:

Site Name	Distance from Project Site (indicative)	Features for which Outstanding Concerns Remain
Sandwich Bay to Hacklinge Marshes SSSI	0km South-east (outfall only – main airport site ~ 1km)	Ornithological interest as identified on the SSSI citation including wintering populations of waders, some of which regularly reach levels of national importance; Grey plover (<i>plurialis squaterola</i>), sanderling (<i>Calidris alba</i>) and ringed plover (<i>Charadrius hiaticula</i>) Sand dune system and sandy coastal grassland as identified on the SSSI citation including large colonies of the nationally rare lizard orchid (<i>Himantoglossum hircinum</i>) and bedstraw broomrape (<i>Orobanche caryophyllacea</i>)
Thanet Coast SSSI	~4km East	Ornithological interest as identified on the SSSI citation including wintering populations of waders, some of which regularly reach levels of international; Ruddy turnstone (<i>Arenaria interpres</i>) and national importance; Grey plover (<i>plurialis squaterola</i>), sanderling (<i>Calidris alba</i>) and ringed plover (<i>Charadrius hiaticula</i>)

2.2. The following **European Protected Species** (EPS) may be affected by the proposed project:

- Bats (present on the Project Site)

3. The Overall Position of Natural England

- 3.1. Natural England considers that the documents presented to the Planning Inspectorate, to support the application for Development Consent, are generally of sufficient quality and detail to allow a considered assessment of the impacts on nature conservation issues in line with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and Conservation of Habitats and Species Regulations 2017.
- 3.2. Natural England's advice is that in relation to identified nature conservation issues within its remit there is no fundamental reason of principle why the project should not be permitted but we currently have outstanding concerns regarding the impacts on the Thanet Coast and Sandwich Bay SPA and Ramsar site, Sandwich Bay SAC and the Sandwich Bay and Hacklinge Marshes and Thanet Coast SSSIs.
- 3.3. On the basis of the information we have reviewed thus far, Natural England is not satisfied that it can be concluded beyond all reasonable scientific doubt that the project would not:
 - 3.3.1. have an adverse effect on the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar and the Sandwich Bay SAC nor that the criteria for derogating from the Habitats Directive are fulfilled;
 - 3.3.2. damage features of interest of the Sandwich Bay and Hacklinge Marshes and Thanet Coast SSSIs;
 - 3.3.3. Natural England advises that, if approved, the project must be subject to all necessary and appropriate requirements which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated.
- 3.4. Unfortunately we have not yet been able to provide specialist review of the information submitted with respect to two key areas of nature conservation interest and are therefore not in a position to advise as to whether the Environmental Statement (ES) and associated documents have covered these in a satisfactory manner. Please be assured that we are working to address this matter as soon as possible. The issues in question are:
 - 3.4.1. Operational air quality impacts on designated nature conservation sites from both aircraft and increased vehicle movements associated with the airport operation.
 - 3.4.2. Construction and operational impacts on bats present within the project site.
- 3.5. Natural England's advice is that there are a number of matters which have not been resolved satisfactorily as part of the pre-application process that we will continue to work on with RiverOak Strategic Partners Limited. However, if our outstanding concerns cannot be satisfied beforehand then our advice is that these must be addressed by the applicant and the Examining Authority as part of the examination and consenting process before development consent can be granted.

4. **Main Issues**

4.1. **Bird disturbance**

4.1.1. **Golden plover (SPA feature)**

Based on the information presented we agree that the Project Site does not appear to be on any major flightlines used by golden plover between feeding and roosting sites and therefore operational barrier effects can be ruled out. We are still awaiting specialist input before we can provide a definitive view as to whether construction phase disturbance impacts can be ruled out with no requirement for mitigation. Our biggest concern is the potential for long term operational disturbance from aircraft flights. We have confirmed previously with the applicant our agreement that beyond distances of 500m in altitude and 1km ground-level lateral distance, golden plover are unlikely to be disturbed by the visual presence of flying aircraft. We do not agree with the application of a noise threshold of 70dB LAmax, below which it can be assumed that no significant disturbance effects will occur. *Cutts et al. (2009)*⁸ indicate that moderate to high disturbance (birds moving away) occurs above 70 dBA and it is therefore evident that birds are likely to begin reacting (heads-up, alarm calls etc.) to noise levels significantly below this. Even relatively low noise levels might still generate moderate behavioural responses in birds (e.g. increased vigilance) which can be significant under certain circumstances (e.g. freezing weather conditions when reduced foraging efficiency can reduce survival). We would advise that care should be taken when drawing conclusions based on other airports and other SPAs as our experience has been that impacts are likely to be site and population specific. We do not agree with the applicant's argument that golden plover in the vicinity of the Project Site are more likely to be habituated to sudden, high noise levels as a result of various agricultural activities (ES Vol 1, Chapter 7, Para 7.8.58) as no evidence is provided as to how the local golden plover population reacts to these. Until this matter has been addressed to our satisfaction we believe that a conclusion of no adverse effect on the integrity of the SPA for this species is premature.

4.1.2. **Turnstone (SPA / Ramsar / SSSI feature)**

Given that turnstone are strongly linked to the coast (and therefore highly unlikely to be found in close proximity to the airport site itself) we agree that significant effects through both construction disturbance and any operational barrier effects can be ruled out. We note that survey results indicate that turnstone do not use intertidal habitats for foraging and roosting within the area where aircraft are predicted to fly over at altitudes of less than 500m. We agree that turnstone appear to habituate to many types of disturbance more readily than many other wader species although there is very little evidence related specifically to the visual and auditory effects of aircraft flights. However, our concerns with regards to the noise modelling to date are the same as for golden plover and until this matter has been addressed to our satisfaction we believe that a conclusion of no adverse effect on the integrity of the SPA / Ramsar for this species is premature.

4.1.3. **Little tern (SPA / SSSI feature)**

Given that little tern does not currently breed around Pegwell Bay and that it is very much a coastal species we agree that significant effects through both construction disturbance and any operational barrier effects can be ruled out. We welcome the fact that the ES considers the potential for the proposed development to hinder any future re-establishment of this species on this part of the coast. We note that the closest available nesting area for little tern is on Shell Ness on the southern edge of Pegwell

⁸ Cutts, N., Phelps, A. & Burdon, D. 2009. Construction and Waterfowl: Defining sensitivity, response, impacts and guidance. Report to Humber INCA. Institute of Estuarine and Coastal Studies, University of Hull.

Bay and that this is outside the area where aircraft are predicted to fly over at altitudes of less than 500m. However, our concerns with regards to the noise modelling to date are the same as for golden plover and until this matter has been addressed to our satisfaction we believe that a conclusion of no adverse effect on the integrity of the SPA for this species is premature.

4.1.4. Other waders (SSSI features)

Following our comments on the 2018 PEIR we are pleased to note that grey plover, ringed plover and sanderling are now referenced in the Baseline Conditions section (ES Vol 1, Chapter 7, Para 7.8.32) but then there is no further reference to these species in the whole of Section 7.8 (Assessment of effects on Thanet Coast & Sandwich Bay SPA/Ramsar, Sandwich Bay to Hacklinge Marshes (SBHM) SSSI and Thanet Coast SSSI through noise, vibration and visual disturbance). Given that all three of the species in question are strongly linked to the coast (and therefore highly unlikely to be found in close proximity to the airport site itself) we agree that significant effects through both construction disturbance and any operational barrier effects can be ruled out. However, we would expect to see the ES consider the potential for operational disturbance from aircraft flights as has been done for the SPA / Ramsar species.

4.2. Surface water discharge

The ES contains details of an outline drainage strategy (DS). The intention at the operational stage is for all surface water to be treated on site and then discharged via an existing outfall into Pegwell Bay. Based on Figure 1.1 (ES Vol 4) it is clear that the outfall lies within the boundary of a number of designated nature conservation sites. However, the Biodiversity chapter (ES Vol 1, Chapter 7) is unclear exactly which designated sites and relevant interest features have the potential to be affected by the surface water outfall. References to 'the Pegwell Bay designated sites' are not sufficient. It is clear that the detailed design of the drainage strategy is not intended to come until after DCO consent at which point the applicant 'may' need to apply for a new discharge permit from the Environment Agency (EA) (ES Vol 1, Chapter 3, Para 3.3.74). However ES Vol 1, Chapter 7, Table 7.7 states on the same issue that 'Discharge from these ponds *will be* via a permitted discharge to Pegwell Bay.' (our emphasis). ES Vol 1, Chapter 8, Table 8.6 summarises the applicant's discussions to date with the EA. The most recent position appears to be that as the discharge to the Pegwell Bay outfall would be of surface water it would not normally require a permit. One possible solution would be for a discharge permit to control the quality of the discharge from the contaminated pond to the clean pond. Given that the DS is an outline, that there is apparent ambiguity over whether the surface water discharge during operation will be controlled by a permit and the current lack of clarity over the designated site interest features which could potentially be affected, Natural England considers it premature at this stage for the applicant to conclude that there will be no significant impacts on internationally or nationally designated sites as a result of the surface water discharge.

4.3. Air quality

On 07 March 2018 Natural England formally confirmed to the applicant that we understood the rationale behind, and were satisfied with, the selection of the non-human (i.e. ecological) air quality receptors. We have also confirmed previously that the UK Air Pollution Information System (APIS) is the correct source for the applicant to use when obtaining background air quality information about the sensitivity of features which form part of the designated nature conservation sites. We are satisfied that the only internationally and nationally designated nature conservation sites which require specialist review of potential air quality impacts are those listed in Section 2 of this response. For those other European sites included in the initial search radius for the HRA we are satisfied that a likely significant effect through the pathway of air quality can be screened out on the grounds that either the features are not sensitive or that aircraft passing over them will be at such an altitude that any emissions will be so diffuse that they can only be

treated as part of the background levels of pollution. For the avoidance of doubt these sites are as follows:

- Thanet Coast SAC
- Outer Thames Estuary SPA
- Stodmarsh SAC / SPA / Ramsar
- Blean Complex SAC
- Margate and Long Sands SAC (incorrectly referred to by the applicant as a Site of Community Importance (SCI) – it was fully designated as a SAC in September 2017)

Until the relevant sections of the ES and supporting documents have undergone specialist review we are not in a position to provide further advice on air quality impacts at this time but will endeavour to resolve this as soon as possible.

4.4. Bats

Chapter 7 of the ES confirms that a number of buildings within the site contain bat roosts of various types, including a hibernation roost, and that many other buildings on site have the potential to support roosting bats. It further acknowledges that post-consent, an EPS mitigation licence will need to be obtained from Natural England. As the applicant does not yet have a full suite of baseline survey data for bats due to difficulties accessing the site at the appropriate times they have prepared a Mitigation and Habitat Creation Plan (ES, Appendix 7.13) based on what they believe is a realistic worst-case scenario. We are not yet in a position to provide our advice on the Mitigation and Habitat Creation Plan but will endeavour to do so as soon as possible.

5. Further information required

5.1. Further information about the project

5.1.1. At this point Natural England is not aware of any further details about the project itself (relating to either its appearance or effects) which should be provided in order for the Secretary of State to properly assess its effects on those environmental assets relevant to our remit. However, we would caveat this statement with the recognition that both the air quality and the EPS information in the ES still require specialist review.

5.2. Further evidence or assessment work required

5.2.1. Bird disturbance

- Noise contour maps - noise contours (LAeq and LMax) for the most important frequencies (2-8kHz in most situations) should be superimposed on the area of concern (e.g. designated site boundaries) using intervals of about 5dB. These should be mapped down to 55dB LMax as our ornithology specialists have been requesting for some time.
- Confirmation of the types of bird scaring methods to be used at Manston, and if they are similar and applicable to use in the applicant's HRA, to those used at London Ashford Airport (Lydd) (As per Appendix 7.1, Appendix C, Table C.2).
- An assessment of operational noise, vibration and visual disturbance impacts on the following SSSI interest features: grey plover (*plurialis squatarola*), sanderling (*Calidris alba*) and ringed plover (*Charadrius hiaticula*).

5.2.2. Water quality

- A clear list of the designated sites and relevant interest features which have the potential to be affected by the surface water outfall. What type of habitat surrounds the outfall?
- Clarification as to how the EA's permitting regime will apply to the surface water discharge.

5.2.3. Air quality

We are not yet in a position to advise on what further evidence or assessment work may be required with respect to operational air quality impacts.

5.2.4. Bats

Review of the Mitigation and Habitat Creation Plan by Natural England is only the next stage in the process with regards to bats. Following our advice on this document (which we will endeavour to provide as soon as possible) the applicant will need to provide a full draft licence application for our comment in order that we can aim to provide a Letter of No Impediment (LONI) prior to the Secretary of State making a decision on the DCO. Other than this general point we are not yet in a position to advise on what further detailed evidence or assessment work may be required with respect to construction and operational impacts on bats.

6. Matters that must be secured by requirements in the DCO

6.1. We are not yet in a position to advise on additions to the DCO but will aim to do so as soon as possible.

7. Comments on the draft DCO

7.1. Requirement 6 (construction environmental management plan)

We support this requirement as outlined in order to avoid construction phase impacts on the designated sites. We may have further detailed comments to make on the construction environmental management plan itself in due course.

7.2 Requirement 7 (operation environmental management plan)

We agree with this requirement as outlined.

7.3 Requirement 8 (ecological mitigation)

This requirement currently requires the Secretary of State to consult with Natural England on all elements of on-site and off-site ecological mitigation. We would suggest this requirement may require re-wording as we do not intend to comment on any ecological mitigation unless it relates to either designated site interest features or EPS.

7.4 Requirement 12 (protected species)

We agree with this requirement as outlined.

7.5 Requirement 13 (surface and foul water drainage)

We are not yet fully satisfied regarding the potential impacts on designated sites from surface water drainage and reserve the right to comment further on this requirement in due course.

Natural England
08 October 2018