

**Our ref:** Q900064/JR  
**Your ref:**  
**Email:** john.rhodes@quod.com  
**Date:** 2 January, 2019



Manston Airport Case Team  
National Infrastructure Planning  
The Planning Inspectorate  
Temple Quay House  
Temple Quay  
Bristol, BS1 6PN

For the attention of Kelvin MacDonald

By email

Dear Mr MacDonald

**Application by RiverOak Strategic Partners Limited for an Order granting Development Consent for the upgrade and re-opening of Manston Airport: PINS REF: TR020002**

Thank you for providing us with a copy of your letter of 11 December 2018 setting out the proposed approach of the Examining Authority in relation to examining the DCO application at Manston Airport (the "**Rule 6 letter**"). I act on behalf of Stone Hill Park Limited ("**SHP**"), together with Messrs Pinsent Masons.

I confirm that SHP does wish to attend the Preliminary Meeting on 9 January 2019 and also the Issue Specific Hearing dealing with matters relating to the draft Development Consent Order on 10 January and to take part generally in the Examination. SHP does not currently intend to attend the Open Floor Hearings referred to in the Rule 6 letter.

Attendance at the Preliminary Meeting and Issue Specific Hearing will be representatives from SHP, legal representatives from Pinsent Masons and Counsel and planning advisers Quod.

I hope it may be helpful if I explain below SHP's intended approach to the examination to assist your consideration in advance of the Preliminary Meeting.

As you are aware from SHP's Relevant Representation dated 8 October 2018 ("**RR**"), SHP is the freehold owner of the vast majority of the land affected by the proposed development by RiverOak Strategic Partners Limited ("**RSP**"), including Manston Airport. SHP has a number of fundamental concerns with the application, which raises a highly unusual set of circumstances. These start with a concern that the application should not have been accepted by the Planning Inspectorate as it does not relate to a Planning Act 2008 compliant NSIP and hence it is our view that the examination itself is not legitimate, in the sense that Development Consent cannot ultimately lawfully be granted for the application.

SHP wishes to assure the ExA that it will assist the ExA throughout the examination as best it can, but SHP's participation is entirely without prejudice to this fundamental position.



### Initial assessment of principal issues

We are aware that the Initial Assessment of principal issues is not intended to be comprehensive or exclusive and that the ExA will examine all important and relevant matters. Nevertheless, we consider that there appear to be some notable omissions from the Initial Assessment of Principal Issues and I hope it may be helpful to list and explain them here ahead of the Preliminary Meeting.

In doing so, I focus on those matters of principal interest to SHP. As you know from SHP's RR and other correspondence, SHP raises fundamental concerns with regard to the DCO application including in particular:

- that the application does not propose an NSIP, but also that the scale of Associated Development proposed very substantially exceeds that which could be lawfully consented in any event;
- that there is no need for the project, no prospect of it being viable and no adequate evidence that it will be funded or delivered; and
- that there is no basis on which powers of compulsory acquisition can be granted to the applicant.

These in principle concerns and the matters which support them will be the focus of SHP's participation in the examination. It is not SHP's intention to spend time and resources in relation to other matters such as air quality, noise, nature conservation, other environmental issues, socio economic or transport issues. That does not mean, of course, that SHP accepts RSP's case in relation to those topics – simply that SHP trusts that the ExA will be able to examine those matters thoroughly without further input from SHP. Our RR set out the principle of our concerns in these regards. We stand by those concerns but we do not propose to add to them, unless it would assist the ExA for us to clarify any matters. Our principal concerns are even more fundamental.

In this context, SHP will be making the following points in relation to the initial assessment of Principal Issues at the Preliminary Meeting:

**Capability:** we are aware from pre-acceptance correspondence and meeting notes that the ExA is seized of this issue. The current capability of Manston Airport is of fundamental importance to whether the application is properly to be treated as an NSIP but we note that the capability of Manston Airport is neither listed as a Principal Issue itself nor does it appear to fit within the Principal Issues as shown. Whilst the application has been accepted for examination, that decision appears to be based on information provided by the applicant, to which SHP and others have not had the opportunity to respond to in the context of the application for a DCO. To that end it is clearly important and relevant to the Secretary of State's decision (and necessary for the fairness of the process) to have a proper understanding of the existing capability of Manston Airport and for any assertion or evidence in that respect to be properly tested.

**Compulsory Acquisition:** in order to make a case for compulsory acquisition, the applicant will need at a minimum to demonstrate the need for, viability of and deliverability of the project and that there is a compelling case in the public interest for its development. These matters should be clearly identified as Principal issues.

It will also be necessary for the ExA to understand the relative need for the proposed development compared with alternative proposals for the use of the land. This would of course include SHP's proposals for the Manston airport site which address the urgent need for housing in the area and which SHP can show are both credible and deliverable in contrast to RSP's project. Furthermore, and in order to ensure a full and proper hearing on compulsory acquisition, SHP asks the ExA to recognise that it will also be necessary to address the extent of land required for the scale of airport operation and air transport movements said by RSP to be envisaged by its application.

**Funding:** whilst this issue is identified, as it clearly it will be necessary to test the viability of the proposals and whether they have a realistic prospect of proceeding, it was surprising to see that the initial list of Principal Issues appears only to raise questions in relation to the funding of land acquisition, blight and noise mitigation. We consider it is essential that the availability of funds to implement and deliver the scheme is examined.

Under this heading, the listed issues fall short of those identified in the Planning Inspectorate's s.51 advice as matter which it expects to examine.

Central to this is viability. We believe that it is essential that the ExA does examine properly the viability of the project, especially given the evidence submitted by SHP in its section 42 consultation response and RR as well as the independent evidence gathered by Thanet District Council that demonstrates that an airport at Manston is not a viable proposition.

**Local Policies:** given that the current emerging Local Plan (which has been submitted) is proceeding on a policy basis now in relation to Manston airport that is contrary to its own evidence base and officer advice, the ExA needs to have evidence so that it can understand and consider the relative need for the allocation of the land for housing, rather than an unviable airport.

**Need:** we consider it is essential that the ExA is able to examine and consider evidence as to the need for the development of Manston as a cargo airport, and does not limit itself to understanding issues related to national need and policy.

**Operational issues:** it is not clear from the listed Principal Issues whether this issue is limited to operational matters or to matters relating to the reality of the forecast air traffic movements, the implications of the applicant's stated position in relation to night flights or the credibility of the phasing proposals. SHP consider that it is clearly important and relevant for the ExA to have evidence and be able to test all of the applicant's claims in this regard.

**Other environmental issues:** as stated above, it is not SHP's intention to engage further in the testing of these issues in the examination unless, of course, the ExA wishes to raise matters directly with SHP. SHP's RR, does however, make the fundamental point that the submitted EIA does not assess the development applied for, nor propose any caps or restrictions to limit the development to that which has been assessed.

### Other procedural issues

I confirm that SHP will engage with and use its best endeavours to agree the Statement of Common Ground on the specific issues relating to Special Category Land listed in Appendix F of the Rule 6 letter.

At the Preliminary Meeting, SHP will be making the case for a number of the matters listed above to be the subject of issue specific hearings.

SHP also formally will request that the Examining Authority exercise its discretion to allow SHP to cross examine the applicant, particularly in relation to:

- aviation need and forecasts at Manston Airport;
- scheme viability and funding; and
- the existence of a compelling need to compulsorily acquire its land.

SHP considers these matters to be fundamental both to its own rights as the owner of the airport and to an effective examination. Targeted cross examination in this way can help the ExA by crystalizing issues which are fundamental to its recommendation on the application. In addition, and as raised in SHP's RR, we ask the ExA to consider whether it is necessary for a technical expert assessor to be appointed to assist the ExA in addressing the evidence on this issue. RSP's entire case (as summarised in the Planning Statement) relies on the need and benefits claimed in the Azimuth Associates reports, not only in presenting the case for development consent to be granted, but also in seeking the grant of extensive powers of compulsory acquisition. This evidence is, therefore, central to the examination of a number of other issues. The availability to the ExA of independent technical expertise would inevitably help to ensure that the case is fully tested.

I trust that this letter is helpful in explaining our position in advance of the Preliminary meeting but I confirm, of course, that I would be pleased to respond to any queries.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

John Rhodes

Director