

Our ref: Q900064/JR
Your ref: 20014586
Email: [REDACTED]
Date: 15 January 2019



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

For the attention of Mr. Kelvin McDonald

By email

Dear Mr McDonald,

Application by RiverOak Strategic Partners Limited: PINS Ref TR020002

We were very grateful to the Examining Authority for hearing our submissions and those from other interested parties concerning the conduct of the Examination at the Preliminary Meeting on 9 January 2019. You kindly confirmed that interested parties could write summarising the submissions which they made.

The representations made on behalf of Stone Hill Park Limited (SHP) were consistent with those set out in our letter of 2 January 2019 (attached). That letter set out our principal requests and I do not propose to repeat the detail of them. There are, however, 3 matters which were raised orally at the Preliminary Meeting, which I would like to emphasise on behalf of SHP.

Nationally significant infrastructure project?

As you know, it is SHP's case that the project that is the subject of the DCO application made by RiverOak Strategic Partners Limited (RSP) does not lawfully comprise a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 (as amended). Other interested parties also raised this issue and did so at the Preliminary Meeting, however it was not listed in Annex B of your letter of 11 December 2018 as a Principal Issue. It is, of course, however of primary importance to the entire examination and the final determination by the Secretary of State.

We drew attention to the necessarily limited basis upon which the decision was made to accept RSP's application as a DCO application (i.e. that it excluded consideration of anything other than RSP's application) and that a view on the capability of the airport was central to that decision.

We note also that the applicant, RSP, did not raise any objection to the question of the status of the project as a NSIP being a proper issue for the Examining Authority or the Secretary of State to consider.

We are grateful to the Panel for its confirmation at the Preliminary Meeting that this issue would be examined.



We also are grateful for the confirmation given that any submissions made on the subject of the status of the project as a NSIP would be fully taken into account.

Given the fundamental significance of this issue, I respectfully request that this be recorded and recognised in your (Rule 8) letter setting out the examination timetable and other procedural decisions following the Preliminary Meeting.

Principal issues

I will not repeat the content of my letter of 2 January 2019 but I respectfully draw attention to the points made therein and to the oral submissions made on behalf of SHP at the Preliminary Meeting. As currently drafted in Annex B of the Rule 6 letter, SHP is concerned that the Principal Issues do not adequately describe the principal matters arising on the application. SHP confirmed that they have particular concern that the initial assessment of the Principal Issues does not identify:

- a) the need for the project itself;
- b) the viability and deliverability of the project;
- c) the availability of funds to fully implement the project;
- d) consideration as to whether the scale of development is justified; and
- e) consideration of alternatives, particular in the context of compulsory acquisition.

With respect, SHP would emphasise that the lack of reference to these issues in the Panel's initial assessment is concerning.

In summary, there can be no compelling need in the public interest to compulsorily acquire SHP's land for a project for which there is no need, no viability and no prospect of delivery.

SHP's concerns were echoed by other interested parties at the Preliminary Meeting. It is important in SHP's submission for the purposes of both transparency and public confidence that the Examining Authority confirms that these issues in particular will be fully examined.

ISH and CA Hearing - Cross examination

SHP also made oral requests at the Preliminary Meeting for there to be compulsory acquisition (CA) and issue specific hearings (ISH) in respect of certain matters and requested that cross examination be permitted.

SHP acknowledges that it is normally the role of the Examining Authority as inquisitor to ask questions of the applicant and other interested parties but that Section 94 of the Planning Act 2008 enables the Examining Authority to permit oral questioning by another person where it is necessary in order to ensure either adequate testing of any representations or that a person has a fair chance to put their case.

SHP was grateful to the Panel for its confirmation that such requests for oral questioning would be considered at the time of any relevant hearing. In order to properly prepare for such hearings, however, SHP requests that the Examining Authority makes a procedural decision as soon as possible that cross examination will be permitted where the following matters are to be the subject of those hearings:

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

I respectfully suggest that the circumstances at Manston Airport are genuinely exceptional. There is no precedent for a DCO application which promotes the compulsory acquisition of virtually the whole of the application site from an objector. This is particularly significant in the absence of an NPS. The application represents a major challenge to SHP's rights. RSP seeks to make its case on the back of complex but obscure aviation forecasts and an alleged case of need, viability and deliverability which is not documented at all in the application and which has been rejected by several industry experts. In order best to assist the Examining Authority and in the interests of fairness, SHP urges the Examining Authority to accept that it must have the opportunity to test this evidence through questioning representatives of RSP.

If this request is granted, I confirm that SHP will seek to ensure that its questioning is focussed, complementary to written and oral questions from the Examining Authority and efficient in the use of examination time. I do believe that cross examination of this nature would assist the examination by forensically testing matters of primary importance.

Given the impact of the DCO on SHP, I respectfully suggest that it would be appropriate that these rights be granted to SHP, and that this is confirmed in good time before the relevant hearings.

I would be pleased to clarify any of these matters with your case management team.

Yours sincerely,



John Rhodes
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