

Summary of Written Representations of Kent Facilities Limited ("KFL") in response to Manston
Airport DCO Application (PINS Reference: TR020002)

1. Introduction

- 1.1. KFL is holder of a legal charge over the land owned by Stone Hill Park Ltd ("SHP") that forms the vast majority of the land RiverOak Strategic Partners Ltd ("RSP") is seeking to compulsory acquire. KFL strongly objects to the application and wishes to take part in the examination.
- 1.2. This is a unique DCO application for many reasons, including;
 - first airport DCO, with material issues regarding its compliance with the s23 criteria;
 - lack of robustness/independence of the evidence to support the need case,;
 - lack of any evidence to enable the ExA to determine funding could be secured;
 - lack of transparency over RSP's beneficial owners and track record of the directors;
 - scale of the compulsory acquisition powers sought;
 - scale and nature of the purported "associated development".

2. NSIP Justification

- 2.1. It is understood PINS accepted information contained in the NSIP Justification at face value in determining satisfaction of the s23 test.
- 2.2. The claim that existing capability is zero is based on inaccurate information and is contradictory (e.g. the claim the fire station has no roof is false and is contradicted in paragraph 6.7.2 of the Statement of Reasons).

3. Lack of any robust evidence to support the need case or forecasts

- 3.1. Without NPS support for the need case, the quality, reliability and independence of the aviation evidence is critical. RSP engaged Azimuth Associates, who from a review of the website and LinkedIn profile has limited credentials. The most relevant experience is from 2000-2001 working *"with colleagues to produce the Master Plan for Manston Airport"*. RSP director Tony Freudmann was a colleague with responsibility for Manston Airport at the time.
- 3.2. As summarised in the full written representations, the DCO case is based on highly partial and deeply flawed "evidence" presented in document 7.4 (Azimuth Report). Its forecasts and conclusions are characterised by unevidenced assertions and have been shown as having no credibility by aviation industry experts including York Aviation, Altitude Aviation Advisory and AviaSolutions, who have the necessary depth of expertise to dissect the misleading assertions, highly selective use of references and baseless conclusions that characterise the Azimuth report.
- 3.3. The local plan being progressed does not seek to protect the existing airport use, nor can it lawfully do so, as the Council's up-to-date evidence base (the AviaSolutions report) confirms that the airport is very unlikely to be financially viable in the longer term.

4. Lack of any evidence to demonstrate viability or that funding could be secured:

- 4.1. Despite PINS advising (May 2018) that the first Funding Statement was inadequate, RSP was unable to address this in its 2nd application.
- 4.2. RSP's Funding Statement claims it has *"obtained advice from surveyors CBRE that the total cost of acquiring the necessary land for the project at its value in the 'no-scheme world', the basis upon which compensation for compulsory acquisition is calculated, as no more than £7.5 million."* The wording matches the withdrawn April 2018 application and appears to be based on the misleading position presented in paragraph 8.106 of the Planning Statement

which claimed the new local plan would protect the site for aviation use. RSP were aware that aviation only policy protection could not lawfully be retained, as noted in the local plan now being advanced. Therefore, EXA can take no comfort over the relevance of the “CBRE advice” or that the £15m that is purported to have been committed is sufficient to cover the CPO costs.

- 4.3. No case at all has been presented to either demonstrate the project’s viability or that £300m of construction costs could be funded. RSP fails to provide the requisite information that would allow any reputable, rational investor to undertake even the most basic preliminary assessment of the viability and fundability of the project. In absence of this information, the EXA will be unable to assess whether the project has any prospect of securing funding. The failure to provide any evidence (or disclose the identity of the beneficial owners / “investors”) fuels suspicions that this is no more than a speculative attempt to use the DCO process to secure CPO powers.

5. Compulsory Acquisition

- 5.1. We have not been able to identify any other DCO where CPO powers have been granted over as large a single land holding (732 acres held by SHP and charged to KFL) to another private entity.
- 5.2. As set out in the full written representations, RSP will be unable to demonstrate that there is a compelling case in the public interest.
- 5.3. RSP’s failure to properly consider any alternative locations is evident in Chapter 2 of the Environmental Statement, with the key unique advantage of the SHP site stated as being the “an existing 2,748m paved runway”, i.e. something that would save RSP many tens of millions of pounds.
- 5.4. This DCO is unique for the many reasons set out in the full written representations. Any recommendation from the EXA to grant CPO powers would set new precedents. Accordingly, we would encourage the EXA to seek both technical expertise regarding the complex air freight market and sufficiently detailed information to allow it to assess viability and fundability of the project.

6. Land required for the proposed project

- 6.1. The scale of the proposed project is far larger than required to the forecasts, and any development would be subject to market and demand suggesting land requirement would be far smaller. Indeed, the plans show a capability that could handle over 83,000 cargo flights – per the CAA statistics for 2017, the total size of the England & Wales market (including intra UK flights) was only c.42,000 in 2017 (or c.18,000 excluding night flights and domestic flights). The concern is the DCO process has been hijacked to facilitate a land grab and the project has been designed to maximise land use, in direct contravention of the guidelines.
- 6.2. RSP has failed to provide an explanation or justification for the works that are purported to be the NSIP and that which is claimed to be associated development. As set out in the written representations, RSP has claimed elements are NSIP development when they are clearly not.
- 6.3. We have been unable to identify any other DCO project that includes as much “associated development”, or one where significant parts of the claimed development contravene the core principles of the Guidance on associated development. The failure to provide any evidence on costings and revenue assumptions makes it impossible for the EXA to determine the extent to which the purported associated development is included to subsidise the principal development.

7. Track Record of Promoter and Principals:

- 7.1. RSP, its directors and owners have no relevant track record.
- 7.2. RSP is a newco SPV, with no parent company with other airport interests. It is 90% owned by MIO Investments Ltd, a Belize registered entity established to hold the anonymous investors' financial interests. Nothing further is known about the identity of the beneficial owners.
- 7.3. RSP claim £15m has been committed, but by whom – is this the beneficial owners. Nothing is known, which is in direct conflict with previous assurances given by RSP, including in its press release from 30 March 2017;

“Additional, comprehensive details of our funding partners and investment arrangements will of course be provided to PINS as part of the DCO application, providing solid evidence of our ability to meet all of the financial obligations associated with the acquisition, reopening and operation of the airport.”

- 7.4. The full track record of the directors and their involvement in airport projects must be fully disclosed and examined. This would greatly assist the EXA in determining the credibility of the RSP team, its intentions and the prospects of RSP being able to secure funding from reputable investors/funders.

8. Significant gaps in base survey data:

- 8.1. Given the significant gaps in the base survey data how can RSP comply with procedural requirements to have the effects of its scheme considered, consulted on and assessed as part of the Examination and importantly the impact on any mitigation plans/strategies that would require to be approved under DCO requirements. Arguably the most fundamental is the lack of transport strategic modelling, which further impacts the noise, air quality, health and other analysis in the ES. It is uncertain how this fundamental work can be carried out, the impacts fully assessed and consulted on in a timeframe that would allow the position to be properly assessed in the Examination.
- 8.2. Other gaps include the failure to take into account the proposed project's impact on community facilities and housing requirements and complete failure to assess the requirement for Public Safety Zones or assess/consult on its impacts.

In conclusion, the application documents are infected with fundamental flaws and material omissions that requires it to be exposed to a rigorous examination by the EXA.