

SUMMARY:
Relevant Representations of Stone Hill Park Limited
in response to
Manston Airport DCO Application
15 February, 2019

1 Introduction

- 1.1 We act for Stone Hill Park Limited (SHP), the freehold owner of the vast majority of the land affected by the proposed development by Riveroak Strategic Partners Limited (RSP), including the site that comprises the airfield known as Manston Airport¹.
- 1.2 SHP **objects** to the Manston Airport Development Consent Order (DCO) application, and wishes to take a full part in the examination, including compulsory acquisition hearings. Below we provide a summary of SHP's relevant representations².

2 SHP's Case

- 2.1 It is SHP's case that the Manston Airport DCO application does not comprise a credible proposal. It is instead clear that the scheme is being proposed via a DCO as a means for RSP to compulsory acquire the land.
- 2.2 SHP's relevant representations identify the 10 issues/grounds for objection which demonstrate this.
- a. Issue 1 - NSIP Justification
- 2.3 As a crucial starting point, RSP have not provided evidence to demonstrate that the proposed development meets the thresholds to be considered an NSIP. A DCO is not necessary to use an airport as an airport.
- 2.4 Under Section 23(1)(b) of the Planning Act 2008, RSP assert that the proposed development comprises the alteration of an existing airport. For such development to comprise an NSIP, the Act states that it must increase the number of annual cargo air traffic movements (ATMs) for which the airport is capable by 10,000 per year. RSP have incorrectly assumed that the current capability of the airport is zero in order to state that they meet this threshold.
- 2.5 SHP's written representations will demonstrate that the current facilities at Manston Airport **do** have a current capability, and that RSP's 'NSIP justification' is based on a series of inaccuracies.
- b. Issue 2 – Scheme Description
- 2.6 There are serious inherent issues with the proposed scheme description. As part of RSP's attempt to justify the proposed development as an NSIP, the description of development states that the proposed development will increase the Airport's capability from 0 to 83,220 freight ATMs.

¹ A plan showing this land is contained in Appendix 1

² Dated 8 October 2018

2.7 However, in assessing “*the likely significant effects of the proposed development*”, the Environmental Statement (ES) assesses the effects of increasing the Airport’s freight capability only from 0 to 17,170 ATMs. One of the following must be true:-

- either the ES is seriously deficient because it has not assessed the development for which application is made; or
- the development applied for is grossly excessive (and must be amended so that its effect is to increase freight ATMs by 17,170) – and evidence of an un-justified attempt to justify the acquisition of far too much land

c. Issue 3 – Lack of Need

2.8 Crucially, RSP have not demonstrated that there is a need for the re-opening of Manston Airport. The airport’s history clearly demonstrates a declining level of demand or need, far below that necessary to justify the DCO. In its period of private ownership from 1999 up to its closure in 2014, Manston Airport failed to sustain viable aviation operations and incurred financial losses of over £100 million.

2.9 The need evidence put forward by RSP and forecasts prepared by Azimuth Associates are neither credible nor robust. Independent analysis by Avia Consultants³, York Aviation and Altitude Aviation⁴ demonstrates that there is no need for the proposed development. It is literally incredible that an airport which averaged less than 450 cargo ATMs each year is now intended to provide 17,000 particularly given estimates that there <18,000 daytime non-domestic cargo ATMs in the whole of England & Wales in 2017.

2.10 With DfT forecasting no growth in cargo flights and spare capacity in much better located airports, there simply is no need for Manston.

d. Issue 4 - Planning Policy

2.11 There is no NPS designated for the proposed development, therefore S105 of the Planning Act 2008 requires that regard must be had to (inter alia) other important and relevant matters. The local plan context clearly falls into this category.

2.12 In short, the Secretary of State has confirmed that the adopted Local Plan (which contains policy support for airport development on the site) is no longer up-to-date, and the emerging Local Plan does not retain aviation policy protection for the airfield because the evidence base cannot support it.

e. Issue 5 – Failure to Justify CA

2.13 The application is an abuse of the DCO process as a means to compulsory acquire SHP’s land. RSP has not come close to meeting the key tests for utilising compulsory acquisition powers:

- they have not demonstrated a compelling need in the public interest (or any need) for

³ Commissioned by Thanet District Council

⁴ Commissioned by RSP

- the acquisition of SHP's land;
- nor have they given proper consideration to available alternative sites or alternative uses of the land;
- there had been no genuine attempts to acquire the land by negotiation; and
- no justification has been provided for the works purported to be NSIP and associated development works – the claimed 'associated development' contravenes the core principles in the DCLG's Guidance, is excessive in scale and has little if any relationship to the principal development.

f. Issue 6 – Inadequacy/Opaqueness of Funding

- 2.14 RSP have consistently failed to demonstrate that they have the necessary funding in place.
- 2.15 We note that from 2014 to 2016, Thanet District Council (TDC) attempted to find an indemnity partner in order to CPO the airport land to deliver the (then) designated airport development. RSP's predecessor, Riveroak Investment Corporation, was considered by TDC and rejected twice on the grounds that they did not comprise a credible indemnity partner. .
- 2.16 As part of the DCO application, RSP has not provided evidence to demonstrate the availability of sufficient funding to cover the costs of compulsory acquisition and property blight arising from the proposed development. RSP is not a credible airport developer, but a special purpose vehicle, 90% owned by an offshore company. Virtually no information is provided about the resource implication or funding available to undertake the development.
- 2.17 There can be no compelling need to compulsorily acquired land for a development which there is no evidence or prospect of funding.

g. Issue 7 – Lack of Viability

- 2.18 The viability of RSP's proposals has not been demonstrated.
- 2.19 Further to the airport's long history of financial failure, recent independent evidence commissioned by Thanet District Council⁵, confirmed by the advice of SHP's expert aviation consultants⁶, is that freight operations at Manston are not viable. The draft Local Plan⁷ also states that *"airport operations at Manston are very unlikely to be financially viable in the longer term and almost certainly not possible in the period to 2031"*.
- 2.20 RSP has not supplied any business case or viability appraisal that would demonstrate that there is any realistic prospect of a re-opened Manston being commercially successful even if RSP's forecasts were delivered.
- 2.21 There can be no compelling need to compulsorily acquired land for a development that will never be financially viable or deliverable.

⁵ Prepared by Avia Solutions

⁶ York Aviation and Altitude Aviation

⁷ Draft Thanet Local Plan Pre-Submission Publication Version (Regulation 19) (October 2019), Paragraph 1.40

h. Issue 8 – EIA

2.22 In addition to not assessing the likely significant effects of the proposed development (see issue 2), the Environmental Impact Assessment (EIA) contains the following fundamental errors:

- the airspace implications have not been assessed;
- there is insufficient coverage of proposed mitigation measures; and
- there are key omissions within the assessments of transport, air quality, ecology, noise, socio-economics, landscape and visual, climate change and major accidents and disasters.

2.23 These are clear breaches of the EIA Regulations.

i. Issue 9 – Public Safety Zone

2.24 No information has been provided regarding the likely public safety zone for a re-opened Manston Airport, despite the significant scale of operations proposed.

2.25 The application should clearly explain the likelihood and size of the required public safety zone and its potential blighting effect. This is to allow consideration of "*risks to human health, cultural heritage or the environment (for example due to accidents or disasters) in relation to crash risk*". This comprises a further significant breach of the EIA Regulations.

j. Issue 10 - Housing

2.26 Following close engagement with TDC, and in response to an emerging Local Plan allocation, SHP has submitted a planning application for a new settlement, including 3,700 new homes and community infrastructure. The deliverability of SHP's proposals has been demonstrated through a detailed ES and viability appraisal. SPH are experienced and resourced to carry out the development.

2.27 There is an acute, sustained housing need in the District and TDC has consistently failed to meet its annual housing delivery targets. The Local Plan Sustainability Appraisal identified Manston Airport as the most sustainable location for a new settlement.

2.28 The DCO application is stalling the delivery of much needed housing on the site and has left the Local Plan in a state of flux. The effective withdrawal of the site from the Local Plan process by the DCO application risks housing needs not being met or less sustainable development becoming accepted.

3 Conclusion

3.1 This is a highly unusual case, affected by deep flaws in the applicant's case. It warrants very close scrutiny through the DCO examination.

3.2 SHP **object** to the proposed development. SHP's focussed case will be set out within written representations and during appearance at the examination hearings.