



RiverOak Strategic Partners

Draft (not agreed) Statement of Common Ground between the Applicant and The Ministry of Defence relating to interests other than the HRDF

TR020002/D4/SOCG/MOD

Examination Document

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MANSTON AIRPORT DCO [2018]

Planning Inspectorate Reference: TR020002

Statement of Common Ground

Between

RIVEROAK STRATEGIC PARTNERS LIMITED

and

THE SECRETARY OF STATE FOR DEFENCE

RSP

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1 Introduction and Purpose

1.1 Purpose of Statement of Common Ground

- 1.1.1 This Statement of Common Ground (“SoCG”) relates to an application to be made by RiverOak Strategic Partners Limited (“RiverOak”) to the Planning Inspectorate under sections 14 and 35(2)(ii) of the Planning Act 2008 (“Act”).
- 1.1.2 The application is for an order granting development consent (“DCO”). The draft DCO is referred to as the Manston Airport DCO. The DCO, if granted, would authorise RiverOak to re-open and operate an airport on the site of the former Manston airport in the district of Thanet in Kent and associated development (“Development”).
- 1.1.3 RiverOak submitted the DCO application to the Planning Inspectorate on 17 July 2018 and it was accepted for examination on 14 August 2018.
- 1.1.4 This SoCG has been prepared by RiverOak and the Secretary of State for Defence in respect of the Development. It deals with all matters relevant to the Secretary of State for Defence’s interests except the High Resolution Direction Finder (HRDF), which is the subject of a separate SoCG in the joint names of RiverOak, the Secretary of State for Defence, the Defence Infrastructure Organisation (DIO) and National Air Traffic Services (NATS).
- 1.1.5 The purpose and possible content of SoCGs is set out in paragraphs 58-65 of the Department for Communities and Local Government’s guidance entitled “*Planning Act 2008: examination of applications for development consent*” (26 March 2015). Paragraph 58 of that guidance explains the basic function of SoCGs:
- “A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence.”*
- 1.1.6 SoCGs are therefore a useful and established means of ensuring that the evidence at the DCO examination focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.
- 1.1.7 The purpose of the SoCG is to set out agreed factual information about the proposed DCO application by RiverOak. It is intended that the SoCG should provide matters on which RiverOak and the Secretary of State for Defence agree. As well as identifying matters which are not in dispute, the SoCG may also identify areas where agreement has not been reached.
- 1.1.8 RiverOak and the Secretary of State for Defence are collectively referred to in this SoCG as “the parties”. The parties have been, and continue to be, in direct communication in respect of the interface between the proposed Development and the designated assets in proximity to the site.

1.1.9 It is envisaged that this SoCG will evolve during the examination phase of the DCO application.

1.1.10 Subsequent drafts will be agreed and issued, with the version numbers clearly recorded in the 'Document Control' table at the beginning of the document.

1.2 The role of the Secretary of State for Defence and the DCO application

1.2.1 [TBC].

1.2.2 The Secretary of State for Defence has an interest in the plots listed in Part 4 of the Book of Reference (application document reference TR020002/APP/3.3) and as shown on the Crown Land Plans (application document reference TR020002/AP/4.3). The following tables set out the Secretary of State for Defence's interests and how they are affected by the Development:

Table 1: Land owned by the Secretary of State for Defence that RiverOak is seeking to acquire pursuant to Article 19 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's interest	Description of Land
018c	1	Owners or Reputed Owners	3 square metres Land and hard standing (Spitfire Way)
025	1	Owners or Reputed Owners	1348 square metres Verges and hardstanding (former Canterbury Road South)
026	1	Owners or Reputed Owners	1342 square metres Access, building and hardstanding (off Spitfire Way)
038	1	Owners or Reputed Owners	6796 square metres Private access, hardstanding, buildings and car parking (off Spitfire Way)
041 (note: this is the HRDF that is the subject of a separate SoCG)	1	Owners or Reputed Owners	51 square metres Building and hardstanding (former airport site)
042	1	Owners or Reputed Owners	327 square metres Public footway and verge (off Manston Road)

Table 2: Land which the Secretary of State for Defence has rights over that RiverOak is seeking to acquire pursuant to Article 19 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
015	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968, and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
015a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968, and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
016a	2 & 3	Beneficiary of rights contained in a Transfer dated 20 March 1996
017	2 & 3	Beneficiary of Legal Charge dated 21 November 2000
020	2 & 3	Beneficiary of Legal Charge dated 21 November 2000
023	2 & 3	Beneficiary of Legal Charge dated 21 November 2000
024	2 & 3	Beneficiary or rights reserved by a Conveyance dated 7 March 1968
026a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968, and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
027	1, 2 & 3	Lessees/Tenants and beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
028	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
036	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
037	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
039	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
040	2 & 3	Beneficiary of rights and restrictive covenants contained in a Transfer dated 21 March 2006
041a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
043	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
043a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
046	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
047	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
047a	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
048	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
048a	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
048b	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
049	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
049a	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
049b	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
050	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
050a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968
050b	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
050c	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
050d	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
050e	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
051b	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
053a	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
053b	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
054	2 & 3	Beneficiary of rights contained in a Deed Poll dated 22 December 1960
055	2 & 3	Beneficiary of rights and restrictive covenants reserved by a Transfer dated 31 August 1999
058	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
068	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
069	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
070	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999
070a	2 & 3	Beneficiary of rights reserved by a Conveyance dated 7 March 1968 and rights and restrictive covenants reserved by a Transfer dated 31 August 1999

Table 3: Land owned by the Secretary of State for Defence that RiverOak is seeking temporary possession of pursuant to Article 29 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's interest
018	1	Owners or Reputed Owners (subsoil interest in highway only)
018a	1	Owners or Reputed Owners
018b	1	Owners or Reputed Owners
042a	1	Owners or Reputed Owners
044	1	Owners or Reputed Owners (in respect of subsoil)
045	1	Owners or Reputed Owners (in respect of subsoil up to half width of highway)
045a	1	Owners or Reputed Owners
045b	1	Owners or Reputed Owners

Table 4: Land which the Secretary of State for Defence has rights over that RiverOak is seeking temporary possession of pursuant to Article 29 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
040a	2 & 3	Beneficiary of legal charge dated 21 March 2006

Table 5: Land which the Secretary of State for Defence has rights over that RiverOak is seeking to create new rights in pursuant to Article 22 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
014	2 & 3	Beneficiary of rights contained in a Transfer dated 20 March 1996
019b	2 & 3	Beneficiary of Legal Charge dated 21 November 2000
020a	2 & 3	Beneficiary of Legal Charge dated 21 November 2000

Table 6: Land which the Secretary of State for Defence has rights over that RiverOak is seeking to acquire subsoil only in pursuant to Article 23 of the draft DCO

Plot number on land plans	Category of Interest in Book of Reference	Secretary of State for Defence's Interest
102	2 & 3	Beneficiary of rights contained in a Deed Poll dated 2 December 1960
103	2 & 3	Beneficiary of rights contained in a Deed Poll dated 2 December 1960
114	2 & 3	Beneficiary of rights contained in a Deed Poll dated 2 December 1960
114a	2 & 3	Beneficiary of rights contained in a Deed Poll dated 2 December 1960

- 1.2.3 The Secretary of State for Defence has interests in relation to the project, specifically as owner and operator of a 'high resolution direction finder' located at plot 41, such other interests are the subject of a separate Statement of Common Ground.

1.3 The Development location and description

- 1.3.1 The Development site lies adjacent to the village of Manston, approximately 13 miles north-east of Canterbury and one mile north-west of Ramsgate. It is on the former site of Manston Kent International Airport which closed on 15 May 2014 and is within Thanet District Council and Kent County Council boundaries.
- 1.3.2 The Development site comprises approximately 749 acres of land. The area in which the proposed Development would be located comprises land to the south and north of Manston Road.
- 1.3.3 The proposed Development comprises the 'principal development' - which includes all works to provide an integrated aviation services hub with the main feature being a major international centre for air freight that is capable of handling a minimum of

10,000 air freight Air Traffic Movements per year and other development that has a direct relationship with the main feature and which is required to support its construction and/or operation.

1.3.4 The Proposed Development comprises:

- (a) upgrade of Runways 10/28 to allow CAT II/III operations;
- (b) re-alignment of the parallel taxiway (Alpha) to provide European Aviation Safety Agency (EASA) compliant clearances for runway operations;
- (c) construction of 19 EASA compliant Code E stands for air freight aircraft with markings capable of handling Code D and F aircraft in different configurations;
- (d) installation of new high mast lighting for aprons and stands;
- (e) construction of 65,500m² of cargo facilities;
- (f) construction of a new air traffic control (ATC) tower;
- (g) construction of a new airport fuel farm;
- (h) construction of a new airport rescue and firefighting service station;
- (i) complete fit-out of airfield navigational aids (nav-aids);
- (j) construction of new aircraft maintenance / recycling hangars;
- (k) development of the Northern Grass area for airport related businesses;
- (l) demolition of the redundant 'old' ATC Tower;
- (m) safeguarding of existing facilities for museums on the site;
- (n) highway improvement works; and
- (o) extension of passenger service facilities including an apron extension to accommodate an additional aircraft stand and increasing the current terminal size.

2 Consultation with the Secretary of State for Defence

2.1 In addition to consultation with the Secretary of State for Defence as part of the non-statutory consultation (30 June to 5 September 2016) and statutory consultations (12 June to 23 July 2017, and 12 January to 16 February 2018) the parties have been in direct communication, by e-mail, letter and phone, as follows:

- 2.1.1 31 October 2017;
- 2.1.2 7 November 2017;
- 2.1.3 22 December 2017;

- 2.1.4 5 January 2018;
- 2.1.5 9 January 2018;
- 2.1.6 12 January 2018;
- 2.1.7 21 January 2018;
- 2.1.8 29 January 2018;
- 2.1.9 6 February 2018;
- 2.1.10 16 February 2018;
- 2.1.11 3 April 2018;
- 2.1.12 12 April 2018;
- 2.1.13 19 April 2018;
- 2.1.14 29 August 2018;
- 2.1.15 20 September 2018;
- 2.1.16 24 September 2018;
- 2.1.17 1 October 2018;
- 2.1.18 2 October 2018;
- 2.1.19 4 October 2018;
- 2.1.20 8 October 2018;
- 2.1.21 7 December 2018;
- 2.1.22 13 December 2018;
- 2.1.23 3 January 2019;
- 2.1.24 14 January 2019;
- 2.1.25 15 January 2019;
- 2.1.26 21 January 2019;
- 2.1.27 4 February 2019;
- 2.1.28 8 February 2019;
- 2.1.29 14 February 2019; and
- 2.1.30 20 February 2019.

- 2.2 A meeting with representatives for both parties was held on:
- 2.2.1 18 October 2018.
- 2.3 Of the above dates and in addition to the meeting between the parties, the Secretary of State for Defence has been in contact with RiverOak on the following dates:
- 2.3.1 7 November 2017;
- 2.3.2 5 January 2018;
- 2.3.3 21 January 2018;
- 2.3.4 24 September 2018;
- 2.3.5 2 October 2018; and
- 2.3.6 14 February 2019;
- 2.4 On 7 September 2018, the Defence Infrastructure Organisation responded to RiverOak's section 56 notice and commented as follows on behalf of the Secretary of State for Defence (referred to as the Ministry of Defence):

In addition, the Ministry of Defence has a number of freehold interests within the DCO boundaries (including the equipment referred to above)¹ as well as a significant number of other legal interests for which no agreement has been reached as to how these will be dealt with.

3 Section 135 of the Planning Act 2008

- 3.1 Section 135 of the Planning Act 2008 reads as follows:

135. Orders: Crown land

(1) *An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if—*

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate Crown authority consents to the acquisition.

(2) *An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.*

- 3.2 The Secretary of State for Defence's interests as set out in the Book of Reference and Crown Land Plans, and for ease of reference set out in Tables 1-6, is Crown land pursuant to section 227 (3)(b) of the Planning Act 2008.
- 3.3 Interests held by the Crown cannot be compulsorily acquired unless permitted by statute. The draft DCO includes a provision relating to Crown rights at Article 40 and the Secretary of

¹ the equipment referred to is being dealt with by way of a separate SoCG.

State for Defence's consent to this clause is required pursuant to section 135 (2) of the Planning Act 2008.

4 Matters which are fully agreed between the parties

4.1 This section of the SoCG describes the 'matters agreed' in detail between the parties.

4.1.1 Consent pursuant to Section 135 of the Planning Act 2008 is required from the Secretary of State for the purposes of securing compulsory acquisition of land/interests for the Development.

4.1.2 The parties agree that the Secretary of State for Defence is the owner of 64 interests within the DCO boundary, as identified in the Book of Reference (application document reference TR020002/APP/3.3) and Crown Land Plans (application document reference TR020002/AP/4.3) and set out in the table at paragraph 1.2.2.

4.1.3 The Secretary of State for Defence has a number of land interests in the areas adjoining and around the Development site. The parties agree that RiverOak will not seek rights over these interests which are outside of the Development boundary.

4.1.4 In accordance with Article 40 (1) set out in the draft DCO, the parties agree that RiverOak is not seeking to take, enter upon or in any manner interfere with any land or rights of any description belonging to the Secretary of State for Defence, without first obtaining the Secretary of State for Defence's written consent.

4.1.5 In accordance with Article 40 (2) set out in the draft DCO, the parties agree that the Secretary of State for Defence's consent may be given unconditionally or subject to terms and conditions.

4.1.6 The Secretary of State for Defence holds the freehold interest in the buildings at plots 026, 038 and 041. The building at plot [TBC] is redundant. The building at plot [TBC] is still operational.

4.1.7 The parties have agreed to act in good faith throughout their interactions in relation to the proposed Development.

4.1.8 [TBC]

5 Matters agreed in principle between the parties

5.1 This section of the SoCG describes the 'matters agreed' in principle between the parties.

5.1.1 In order for RiverOak to build and operate the Development, the parties agree that it may be necessary for at least some of the Secretary of State for Defence's rights in land to be suspended.

5.1.2 The parties agree that the proposed Development may have an impact on the Secretary of State for Defence's ability to exercise its rights over the plots of land

identified in the table at paragraph 1.2.2. RiverOak agrees to minimise this impact wherever possible.

5.1.3 [TBC]

6 Matters not agreed

6.1 This section of the SoCG describes the matters not agreed between the parties.

6.1.1 The Secretary of State for Defence's consent pursuant to Section 135 of the Planning Act 2008 has not yet been agreed.

6.1.2 [TBC]

Signed on Behalf of RIVEROAK STRATEGIC PARTNERS LIMITED

Signature:

Name:

Position:

Date:

Signed on Behalf of THE SECRETARY OF STATE FOR DEFENCE

Signature:

Name:

Position:

Date: