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RiverOak Strategic Partners

Statement of Common Ground between the Applicant and Natural England

TR020002/D4/SOCG/NE

Examination Document

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Statement of Common Ground

Between

RIVEROAK STRATEGIC PARTNERS LIMITED

and

NATURAL ENGLAND

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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 by Planning Inspectorate on the 14 August 2018.

1.1.4 This SoCG has been prepared by RiverOak and Natural England in respect of the Development.

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 DCO application by RiverOak. It is intended that the SoCG should provide matters on which RiverOak and Natural England 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 Natural England 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.
- 1.1.11 **Appendix A** of this document identifies which of the following paragraphs address the topics included in the Rule 6 letter.
- 1.2 The role of Natural England and the DCO application
- 1.2.1 Natural England is the government's adviser for the natural environment in England, helping to protect England's nature and landscapes for people to enjoy and for the services they provide and is a statutory consultee in relation to the DCO application.
- 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 (c.303.2 hectares) 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 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 Natural England

2.1 This section sets out the consultation between the parties to date. However, it should be noted that RiverOak and Natural England are in direct communication and will continue to be throughout the examination period.

2.2 Consultation to date has included:

2.2.1 Meeting on the 26 April 2016 to discuss the project outline, general overview of biodiversity issues (including European Sites) and the potential scope of the Evidence Plan process;

2.2.2 Meeting on the 9 November 2016 to provide Natural England with a project update and to discuss use of third party data, the HRA screening methodology, ornithological surveys and assessment parameters;

2.2.3 Meeting on the 5 September 2017 to provide Natural England with a further project update and to discuss the baseline survey programme, HRA and European Protected Species and ornithological surveys;

2.2.4 Consultation representation received 16 February 2018;

2.2.5 A teleconference between the parties on the 6 March 2018 to provide Natural England with an update on the application and discuss bat surveys, European Protected Species licencing, the HRA and noise (in relation to effects on birds, air quality and water);

2.2.6 Several phone calls to discuss the project on the 3 October 2017, 26 October 2017, 17 May 2018, 25 June 2018, 04 September 2018, 05 September 2018 and 11 September 2018;

2.2.7 Natural England also provided Wood with comment on an early version of ES Appendix 7.4, a Technical Note of a literature review of airports and disturbance to birds, and a Method Statement on winter bird survey methodology. This supported the surveys reported in ES Appendix 7.5;

2.2.8 A teleconference between the parties on the 28 January 2019 to discuss matters (other than air quality);

- 2.2.9 A teleconference between the parties on the 1 February 2019 to discuss air quality matters with the Natural England air quality specialist.
- 2.2.10 A teleconference between the parties on the 11 February to discuss European Protected Species (bats) and licencing.

3 Matters which are fully agreed between the parties

- 3.1 This section of the SOCG describes the matters agreed between the parties.

EIA Approach and Method

- 3.1.1 Natural England acknowledges and agrees that the results of the EIA are appropriate, and in particular that:

- (a) the assessment represents a reasonable “worst case” approach; and
- (b) the mitigation measures outlined reflect and address the worst case scenario on Site.

- 3.1.2 Other than the issues set out below, Natural England has no further comments on the Environmental Statement submitted with the DCO Application.

Birds

- 3.1.3 Natural England agrees that the scope of and methodology used for the ornithological surveys are appropriate.

- 3.1.4 Natural England acknowledges that a number of existing airports operate close to SPAs – John Lennon (Liverpool), Belfast City and Lydd airports and RiverOak has provided an updated literature review on this point to Natural England.

- 3.1.5 Natural England has agreed that it will seek views internally as to what information could be shared on any other English airports. Information has been provided to RiverOak on John Lennon Airport as the runway for this airport ended near the edge of the Mersey Estuary SPA, of which golden plover is a qualification species.

- 3.1.6 Natural England is content with the extent of winter bird baseline data (including survey and desk study data) as the data to be gained from nocturnal surveys for golden plover is limited. Natural England agrees that it will request more information internally from Martin Sutherland, who provided the information in the 2017 Natural England report and had studied nocturnal use of farmland golden plover in Thanet.

- 3.1.7 RiverOak acknowledges that it is Natural England's standard position on birds and noise disturbance that while higher noise levels are not necessarily disturbing in all cases, it is only below 55 dB LAMax that Natural England are satisfied there is no risk of disturbance.

- 3.1.8 Both parties acknowledge that birds and noise is a particularly complex issue with different species responding differently and even the same species at different sites showing variations in behaviour.

Air Quality

- 3.1.9 Natural England confirms that it fully understands and is satisfied with the selection of non-human Air Quality receptors as set out in the Air Quality Technical Note and relevant sections of the PEIR and Environmental Statement (**Document 5.2**) and is comfortable with the approach to receptor selection and assessment.
- 3.1.10 Natural England confirms that, in terms of air quality impacts from the airport itself, acidity, nutrient nitrogen and daily mean NO_x (short term) in all years modelled, are below the level of significance at designated nature conservation sites, and so no further assessment is required.

European Sites and Species

- 3.1.11 The Report to Inform the Appropriate Assessment contains Table 3.2 on the Screening Assessment, which summarises the issues and features that have been screened in or out as having a likely significant effect. Natural England agrees that the correct issues have been screened in for further assessment.
- 3.1.12 Natural England agrees that the Report to Inform the Appropriate Assessment has identified all of the likely significant effects and implications on European sites including Appropriate Assessment of certain issues i.e. those resulting from potential impacts from noise, air quality and drainage.

Water Quality

- 3.1.13 Natural England acknowledges that due to the presence of an aquifer, intrusive groundworks on the Development site will be kept to a minimum. Where intrusive groundworks are necessary, they will be carried out in a single stage and the locations will be chosen carefully to reduce the risk of contamination of the aquifer.

Land Quality

- 3.1.14 Natural England acknowledges that access to site to carry out intrusive surveys prior to submission of the environmental statement has not been made available to assess contamination. In addition, due to the presence of an aquifer, intrusive groundworks on the Development site will be kept to a minimum. This approach reflects previous consultation with the Environment Agency which expressed a preference to minimise any intrusive works due to the risks associated with the Lord of the Manor source.

Mitigation Measures

- 3.1.15 Natural England has reviewed the Mitigation and Habitat Creation Plan and has not raised any concerns.

Wildlife Hazard Management

- 3.1.16 Natural England acknowledges that the bird scaring methods to be employed at Manston will need to comply with those set out in the Civil Aviation Authority's CAP 772.

4 Matters agreed in principle between the parties

4.1 This section of the SOCG describes the matters agreed in principle between the parties.

Surveys

- 4.1.1 Natural England agrees that European species have been adequately dealt with in the assessment. Natural England will issue a Letter of No Impediment on receipt of a satisfactory draft mitigation licence application for bats. Post-consent, a European Protected Species mitigation licence would need to be obtained from Natural England prior to demolition or modification of buildings, or felling of trees, identified as bat roosts.
- 4.1.2 Natural England acknowledges that RiverOak has not been able to access the site to collect some baseline data prior to submission of the application. However, Natural England acknowledges that RiverOak intends to carry out further surveys during the examination period and that in the environmental statement submitted with the application, RiverOak has assessed the worst case scenario based on the information available (See **Document APP-033, Chapter 5**).
- 4.1.3 RiverOak also acknowledges that it may be necessary to collect additional information (for example bat activity period roosts data) after the examination period but prior to commencement of works. RiverOak has therefore included a requirement in the draft DCO (**Document APP-006, Schedule 2, Requirement 12**) to provide for pre-construction survey work and, where necessary, for a scheme of protection and mitigation measures to be produced in consultation with Natural England.

Water Quality

- 4.1.4 Natural England acknowledges that it is aware that discharge was via the existing outfall at Pegwell Bay. RiverOak acknowledges that they would not want to see any deterioration in water quality as a result of the proposed development.
- 4.1.5 RiverOak predicts there will be no significant effects on the European designated sites as clean water is to be discharged. However, the parties agree that the exact regulatory arrangement for the quality of the site discharges will be discussed with the Environment Agency and Natural England and determined prior to the commencement of works.

5 Matters not yet agreed

5.1 This section of the SOCG describes the matters not yet agreed between the parties

Requests for further information

- 5.1.1 Natural England requested further information in respect of a number of issues through their relevant representation. Without this information, Natural England is unable to agree that there will be no adverse impact on designated sites and features in relation to bird disturbance and water quality impacts. The following information is required:

- (a) Noise contour maps (showing the contours at 5dB intervals, and for both L_{Amax} and L_{Aeg}) superimposed onto the designated sites.
- (b) Assessment of the operational noise, vibration and visual disturbance impacts on SSSI features (grey plover, sanderling and ringed plover).
- (c) A list of designated sites and relevant interest features that could potentially be affected by discharge from the outfall.
- (d) In relation to the effects of bird scaring methods on Golden Plover, information about the proportion of functionally linked land that would be lost, any reason why not all of the land within the 1km buffer would be suitable for golden plovers, and the crop rotation within the 1km buffer.

5.1.2 RiverOak agrees to provide the further information requested.

Air quality

5.1.3 Natural England raised the following points on air quality:

- (a) Annual mean NOx for all the years modelled is above the level for 'insignificance' at some locations and is not adequately addressed in the biodiversity chapter of the ES;
- (b) It is also not clear that in combination impacts have been assessed correctly, either between the airport and road activity or with other planned development (e.g. the Local Plan), this may have implications for the sites screened out from further assessment in the Report to Inform an Appropriate Assessment, eg The Swale SPA/Ramsar; and
- (c) Environment Agency permitting criteria were employed assessing national and local receptors within 2km of the DCO Order Limits. This is not adequate as Natural England assessment criteria, extending the distance to 5km from the Order Limits, should have been used and the Applicant's assessment requires appropriate amendment.

5.1.4 Riveroak agrees to provide further information to clarify each of the points raised on air quality.

Signed on Behalf of RIVEROAK STRATEGIC PARTNERS LIMITED

Signature:

Name:

Position:

Date:

Signed on Behalf of NATURAL ENGLAND

Signature:



Name: Marian Ashdown

Position: Casework Manager

Date: 8 March 2019

APPENDIX A
RULE 6 LETTER TOPIC CROSS-CHECK

Rule 6 letter topic	SoCG section
An update on Natural England's interim view on adverse effects on the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar and the Sandwich Bay SAC.	3.1.6; 3.1.10; 3.1.12
Any potential damage to features of interest of the Sandwich Bay and Hacklinge Marshes and Thanet Coast SSSIs.	5.1.1(b)
Impacts on European protected species, in particular, on bats.	4.1.1
In respect of air quality, the in-combination impacts of emissions from both aircraft and increased vehicle movements on designated nature conservation sites	5.1.3(b)
Visual and noise disturbance of bird species which are notified features of designated nature conservation sites.	5.1.1(a) & (b)
Water quality impacts on designated nature conservation sites.	4.1.5; 4.3.1(c)