



Planning Act 2008 – section 92

Application by RiverOak Strategic Partners for an Order Granting Development Consent for the reopening and development of Manston Airport

Agenda for the Compulsory Acquisition Hearing

The Examining Authority (ExA) notified Interested Parties in its letter dated 8 February 2019 of the decision to hold a Compulsory Acquisition Hearing (CAH):

Hearing	Date and time	Location
Compulsory Acquisition Hearing	Wednesday 20 March 2019 Seating available from 9.30am. The hearing will start at 10.00am	Laurence Suite, Building 500, Discovery Park, Sandwich, CT13 9FF

Participation, conduct and management of hearing

The CAH is being held to ensure adequate examination of the provisions within the Draft Development Consent Order seeking to authorise the Compulsory Acquisition of land and/ or rights over land and to assess whether the conditions relating to the land and/ or rights being required for the Proposed Development or required to facilitate or be incidental to that development are met and whether there is a compelling case in the public interest for the land to be acquired compulsorily.

All Interested Parties are welcome to attend the hearing. However, Affected Persons whose land interests are affected under Compulsory Acquisition proposals are specifically invited to attend. Affected Persons have the right to speak at this hearing and will be invited to do so.

The ExA will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by a member of the Panel, supported by other Panel members.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them.

Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including through the inclusion of questions in the ExA's second Written Questions.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day or continue the hearing at a subsequent sitting.

The ExA recognise that other hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition. In particular, the need for the Proposed Development is to be examined at an Issue Specific Hearing on need and operations scheduled to take place at 10.00am on Thursday 21 March 2019.

Throughout this hearing, the ExA will be referring to the following documents, amongst others:

- Revised Draft Development Consent Order (Tracked) [REP3-193]
Submitted at Deadline 3 at 15 February 2019
- Revised Explanatory Memorandum (Tracked) [REP3-199]
Submitted at Deadline 3 at 15 February 2019
- Statement of Reasons [APP-012]
Submitted with the application at 17 July 2018
- Funding Statement [APP-013]
Submitted with the application at 17 July 2018
- Book of Reference: Post-Application Revision 1 [REP3-194]
Submitted at Deadline 3 at 15 February 2019
- Schedule of Changes to Book of Reference [REP3-180]
Submitted at Deadline 3 at 15 February 2019
- Land Plans [APP-016]
Submitted with the application at 17 July 2018
- Crown Land Plans [APP-017]
Submitted with the application at 17 July 2018
- Revised Works Plans [REP3-197]
Submitted at Deadline 3 at 15 February 2019
- Special Category Land Plan [APP-019]
Submitted with the application at 17 July 2018
- Revised Compulsory Acquisition Status Report
Submitted at Deadline 4 at 8 March 2019, reference number to be allocated
- Appendices to Answers to First Written Questions [REP3-187]
Submitted at Deadline 3 at 15 February 2019



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- Revised Noise Mitigation Plan
Submitted at Deadline 4 at 8 March 2019, reference number to be allocated
- Revised NSIP Justification (tracked) [REP1-006]
Submitted at Deadline 1 at 18 January 2019
- s51 Advice on Funding, Response for Deadline 1, Enclosure 1 To Main Letter included in Enclosure 2 to the Deadline 1 Submission Cover Letter [REP1-001]
Submitted at Deadline 1 at 18 January 2019

References in square brackets [] are to the unique document identification number in the Examination Library. This document is found on the National Infrastructure Planning website at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-002558-Manston%20Examination%20Library%20Template.pdf>

During the hearing, the ExA may additionally refer, in particular, to:

- DCLG Planning Act 2008: Guidance Related to the compulsory acquisition of land, September 2013¹

¹ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf



AGENDA

- 1. INTRODUCTIONS**
- 2. OPENING REMARKS BY THE EXAMINING AUTHORITY**
- 3. REQUESTS TO QUESTION A PERSON MAKING ORAL REPRESENTATIONS DIRECTLY UNDER S94 OF THE PLANNING ACT 2008**

Section 94(7) of the Planning Act 2008 (PA2008) states that

"...the Examining authority must apply the principle that any oral questioning of a person making representations at a hearing (whether the applicant or any other person) should be undertaken by the Examining authority except where the Examining authority thinks that oral questioning by another person is necessary in order to ensure –
(a) adequate testing of any representations, or
(b) that a person has a fair chance to put the person's case."

The Examining Authority (ExA) will consider any requests for questioning of those making oral representations at the hearing by another person under this item at the Hearing.

4. DOCUMENTATION

The ExA will request the Applicant to set out, and explain the nature of, changes to the relevant application documents as submitted at Deadlines 1, 3 and 4.

5. FUNDING

a) RiverOak Strategic Partners

The Applicant is requested to explain the nature, timing, rationales and implications of the restructuring of the ownership of RiverOak Strategic Partners referred to in s51 Advice on Funding, Response for Deadline 1, Enclosure 1 To Main Letter included in Enclosure 2 to the Deadline 1 Submission Cover Letter [REP1-001] and in the Applicant's responses to questions F.1.3, F.1.10, and F.1.11 in Applicant's Answers to First Written Questions [REP3-195].

The ExA has noted the Applicant's responses to questions F.1.11 and F.1.12 in Applicant's Answers to First Written Questions [REP3-194]) and has noted that the Updated 1.5 Application Document Tracker (Tracked) [REP4-reference number to be allocated] submitted at Deadline 4 on 8 March 2019 shows that the Funding Statement as submitted with the Application on 17 July 2018 [APP-013] has not been superseded.



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The ExA will require a statement from the Applicant to explain why, in particular, an updated Funding Statement has not been provided in advance of the Compulsory Acquisition Hearing.

b) Resource implications

Paragraph 17 of Guidance Related to the compulsory acquisition of land, September 2013 states that, "[The funding] *statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required.*"

This item will draw on, inter alia, responses to the ExA's first questions F.1.5, F.1.6, F.1.7, F.1.8 and on the Business Model at Appendix F.1.5, The Financial Statement at Appendix F.1.2 and the Capital Expenditure Budget at Appendix F.1.6, all in Appendices to Answers to First Written Questions [REP3-187].

c) The Undertaker and availability of funds

This item will draw on, inter alia, responses to the ExA's first questions F.1.1, F.1.2, F.1.3, F.1.4 and on the Business Model at Appendix F.1.5, The Financial Statement at Appendix F.1.2 and the Capital Expenditure Budget at Appendix F.1.6, all in Appendices to Answers to First Written Questions [REP3-187].

d) Potential shortfalls

Paragraph 17 of Guidance Related to the compulsory acquisition of land, September 2013 states that "...*the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.*"

This item will draw on, inter alia, responses to the ExA's first questions F.1.7 and F.1.11.

e) Timing

Paragraph 18 of Guidance Related to the compulsory acquisition of land, September 2013 states that, "...*applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made.*"

This item will draw on, inter alia, responses to the ExA's first question F.1.12.

f) Revised Noise Mitigation Plan

The ExA will examine the funding implications of the Revised Noise Mitigation Plan [REP4-reference number to be allocated].



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This item will draw on, inter alia, responses to the ExA's first question F.1.9.

g) Blight

To seek to establish that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.

This item will draw on, inter alia, responses to the ExA's first question F.1.10.

h) Guarantee or alternative form of security

The nature of the guarantee or alternative form of security contained in Article 9 of the Revised Draft Development Consent Order (Tracked) [REP3-193] and by whom it should be approved

This item will draw on, inter alia, responses to the ExA's first questions F.1.9, F.1.13 and F.1.14.

6. CROWN LAND

To seek to establish whether the land, or an interest in it held by or on behalf of the Crown, can be acquired through negotiation and bilateral agreement.

The ExA will require a report from the Applicant on the position in respect of negotiations with the Secretary of State for Defence, the Government Legal Department, and the Met Office in respect of land at plots identified in Part 4 of the Book of Reference: Post-Application Revision 1 [REP3-194] as being Crown Land.

This item will draw on, inter alia, responses to the ExA's first questions CA.1.36, CA.1.37, CA.1.40 and the Statements of Common Ground (SoCG) with the Met Office [REP4-reference number to be allocated] and the Ministry of Defence (Land) [REP4-reference number to be allocated].

7. SPECIAL CATEGORY LAND

The ExA will require a report from the Applicant on the position in respect of negotiations with Kent County Council, Thanet District Council, Nemo Link Limited and Stone Hill Park Limited in respect of land at plots 185b, 185c, 185d, and 185f identified in Part 5 of the Book of Reference: Post-Application Revision 1 [REP3-194] in respect of special category land under s131 and s132 of the PA2008.

This item will draw on, inter alia, responses to the ExA's first questions CA.1.41, CA.1.42, CA.1.43, and the SoCGs between the Applicant and Nemo Link Limited [REP3-183] and Stone Hill Park Limited [REP4-reference number to be allocated] and Local Impact Reports produced by Kent County Council [REP3-143] and Thanet District Council [REP-010].



8. STATUTORY UNDERTAKERS

To seek to establish the position in respect of Statutory Undertakers potentially affected by the provisions of s127 and/ or s138 of the PA2008.

The ExA will require a statement from the Applicant on the position re NATS.

This item will draw on, inter alia, responses to ExA's first questions CA.1.32, CA.1.33, CA.1.34, CA.1.38, CA.1.39 and SoCGs between the Applicant and BT Group PLC [REP4-reference number to be allocated]; Network Rail Infrastructure Limited [REP3-175]; South Eastern Power Networks PLC [REP4-reference number to be allocated]; Southern Gas Networks [REP3-175]; and Southern Water Services Limited [REP4-reference number to be allocated].

9. THE POSITION IN RESPECT OF NEGOTIATIONS WITH ANY AFFECTED PERSONS NOT ALREADY COVERED

The ExA will require a statement from the Applicant on the position regarding plots 071, 072, 072a, 077 (Anthony Jenkins Fuel Oil Limited/ Anthony Norman Jenkins).

The ExA will require a statement from the Applicant on the position in relation to discussions with and agreed statements by the Department for Transport and/ or Highways England in respect to Operation Stack, Brock or successor initiatives.

The ExA notes the submission at Deadline 4 of a Revised Compulsory Acquisition Status Report [REP4-reference number to be allocated]

This item will draw on, inter alia, responses to the ExA's first questions CA.1.16, CA.1.17, CA.1.18, CA.1.19, CA.1.20 (in respect of the Jentex Fuel Facility), CA.1.21, CA.1.22, CA.1.23, CA.1.24 and CA.1.25 (in respect of Operation Stack) and CA.1.26.

10. ORAL REPRESENTATIONS FROM AFFECTED PERSONS PRESENT AND/ OR FORMALLY REPRESENTED

The ExA will then invite oral representations from Affected Persons present and/ or formally represented.

11. OBJECTIONS TO COMPULSORY ACQUISITION

To consider issues raised by those Affected Persons who have made a specific or identifiable objection to Compulsory Acquisition in Relevant Representations and/ or Written Representations or other representations insofar as they have not been dealt with in items above.

The ExA notes that the Revised Compulsory Acquisition Status Report [REP4-reference number to be allocated] shows representations as having



been made by the following Affected Persons not mentioned elsewhere on this agenda:

- Barry James Morris;
- David Steed
- Jeremy Ian de Rose
- Kent Facilities
- Marcus James Russell
- Robin Cross

12. CATEGORY 3 PERSONS

To consider the criteria for the selection of affected persons included as Category 3 claimants in the Book of Reference: Post-Application Revision 1 [REP3-194].

This item will draw on, inter alia, responses to ExA's first questions CA.1.27, CA.1.28, and CA.1.29.

13. THE DRAFT DEVELOPMENT CONSENT ORDER

To consider any aspects of Part 5 of the Revised Draft Development Consent Order (Tracked) [REP3-193] not covered elsewhere in this hearing.

14. COMPELLING CASE IN THE PUBLIC INTEREST

To seek to establish a compelling case in the public interest for the land to be acquired compulsorily.

Including whether the public benefits that would be derived from the Compulsory Acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

This item will draw on, inter alia, the Applicant's response to ExA's first question CA.1.9 and discussions under items 6, 7, 8, 9, 10 and 11 on this agenda.

15. LAND REQUIRED

To seek to establish that the land is required for the development to which the development consent relates or that it is required to facilitate, or is incidental to, that development, is for a legitimate purpose and is necessary and proportionate, including:

- a) Development on the Northern Grass.
- b) The extent of the land with plots shown in blue in Insets A, B, C, D, E and F in the Land Plans [APP-016].
- c) Glide path safeguarding in relation to plots 015b, 017, 020, 021, 022, 023, 024, 025.



- d) How the Applicant intends to use the land which it is proposed to acquire, including the eventual use of land where Compulsory Acquisition has been applied for, for example, on land larger than that required for the work or to provide flexibility in decision making and design.
- e) Provisions should the project be unimplemented.

This item will draw on, inter alia, responses to ExA's first questions CA.1.4, CA.1.5, CA.1.6, CA.1.7, CA.1.8, and CA.1.31 and DCO.1.1, DCO.1.2 and DCO.1.3.

16. REASONABLE ALTERNATIVES

To seek to establish that all reasonable alternatives to Compulsory Acquisition have been explored, including:

- a) Modifications to the scheme.
- b) The use of alternative methods to achieve the required control over land.
- c) Previous attempts to purchase the land – compulsorily or otherwise.
- d) The approach taken to acquire land and/ or rights voluntarily including with Stone Hill Park Ltd.

This item will draw on, inter alia, responses to the ExA's first questions CA.1.10, CA.1.11, CA.1.12, CA.1.13, CA.1.16, CA.1.17, CA.1.18 and CA.1.19.

17. POTENTIAL RISKS OR IMPEDIMENTS

To seek to establish that any potential risks or impediments to the implementation of the scheme have been properly managed, including:

- a) How the Applicant has taken account of any physical and legal matters pertaining to the application.
- b) How the Applicant has fulfilled need to obtain any operational and other consents which may apply to the type of development for which they seek development consent.

This item will draw on, inter alia, responses to the ExA's first questions CA.1.14 and CA.1.15 and SoCG between the Applicant and CAA [REP4-reference number to be allocated].

18. PROPOSED INTERFERENCE WITH RIGHTS

To seek to establish that the purposes for which an order authorises the Compulsory Acquisition of land and/ or rights over land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected, including:



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- a) The particular effect on the dwellings referred to in section 5: Purchase and relocation assistance scheme in the Revised Noise Mitigation Plan [REP4-reference number to be allocated].
- b) The effect of Compulsory Acquisition on the operation of businesses and activities affected by applications for Compulsory Acquisition.
- c) The proposed use of restrictive covenants.

This item will draw on, inter alia, responses to the ExA's first questions CA.1.30 and the SoCGs with RAF Manston Museum [REP3-191] and Spitfire and Hurricane Museum [REP3-173]; Avman Engineering [REP3-181]; and Polar Helicopters [REP3-183].

19. ANY OTHER RELEVANT BUSINESS

20. EXA'S CLOSING REMARKS AND CLOSE OF HEARING