

MANSTON AIRPORT DEVELOPMENT ORDER EXAMINATION

SUBMISSION FOR DEADLINE 5 (Part Three)

WRITTEN SUMMARY OF ORAL REPRESENTATION MADE AT OPEN FLOOR HEARING OF 18/3/19 FROM LOCAL BUSINESS AND INTERESTED PARTY, FIVE10TWELVE LTD

1. I'm not going to waste any time here addressing the Applicant's flimsy 'need' case, save to say it runs counter to more than 25 years of successive government reports and policy statements that have repeatedly assessed and consistently ruled out Manston.
2. But apparently the Applicant knows best.
3. Be that as it may, the National Policy Statement for Airports - the NPS - states that a balance must be struck between the adverse impacts of airport development and any potential benefits.
4. Adverse effects of any airport are well-documented.
5. In the case of Manston, however, a determining factor to date has been the rather unique adverse effects caused by the orientation of the runway and the proximity of the site to Ramsgate, resulting in aircraft flying over the heads of a town of 40,000 people at altitudes of 300 to 600ft.
6. The NPS further states at 4.4 that in considering any proposed airport developments a balance must be struck between the adverse impacts and any potential benefits and - I quote - "***The Secretary of State will have regard to the manner in which benefits are secured, and the level of confidence in their delivery***".
7. Which brings us to the question of Operations.

8. And here - again - there is a crucial difference between **this** DCO Application and plans being put forwards by Heathrow, Gatwick, East Midlands, Manchester, Doncaster, Stansted, Luton, and Kent's existing airport at Lydd.
9. The difference is that those other plans are being put forwards by actual, successful airport operators.
10. In this case, however, the Applicant appears to have now given up even trying to pretend that it has any such credentials.
11. Having been challenged to evidence the 20-plus-years experience of airport operations on the team, they have **failed to provide any CVs or detailed career histories of the Directors**. And anyone who has read my submission in response to the Applicant's answers to the ExA's Funding and Resources questions¹ will know exactly why that is.
12. The Applicant made no attempt to claim any successful Airport Ops experience in its response to the ExA's Funding Questions, saying at F.1.15 they will "bring in" *"suitably qualified and experienced professionals in Airport Operations **following the grant of any DCO**"*.
13. This gives a clear indication that the **Applicant's only interest is in getting the land**. They make no attempt to hide this. They are openly saying they will figure out all that complicated "developing and running an Airport" stuff later on. They just want the land.
14. It gets worse. The **Applicant goes on to absolve itself of any responsibility** for delivering any operational success and makes some quite extraordinary statements implying that actually that's up to the CAA, saying (and I quote):

¹ [REP4-042](#) Five10Twelve Comments on Applicant's responses to Written Questions, Q.F.1.1

“The Applicant recognises the vital role of the aviation regulatory community in delivering this project”² and

“it is the responsibility of the CAA to ensure that the holders of an Aerodrome Licence are financially and operationally competent and suitable persons”³

So, if it all goes wrong, as it did so spectacularly with Mr Freudmann’s previous attempts at Odense in 2005⁴ - and Manston - and at Lahr⁵ immediately before embarking on this current vanity project in 2013, apparently it will be the CAA’s fault.

15. There are many fundamental issues with this, which - with the greatest respect to the Examining Authority - present you with **an impossible task with regards to giving the Secretary of State any confidence** at about the manner in which any benefits might be secured or any confidence whatsoever that the Applicant is capable of delivering them.
16. But before we even get to the operational issues, the Applicant’s own application and derisory responses to the ExA’s questions also make it painfully clear that there are no *“suitably qualified and experienced professionals in Airport Operations”* on the Applicant’s team.
17. How many more times do we have to read statements like :

“This will **now** be provided at the **next** deadline” or...

“We have not produced any detailed costings for this” or...

“We do not feel it is necessary to provide this information”?

And increasingly - and worryingly for the ExA

“Will will produce this **after the DCO is granted**”

² [REP4-042](#) Five10Twelve Comments on Applicant’s responses to Written Questions, F.1.15

³ *ibid*

⁴ *Ibid*, F.1.1, Paragraphs 1.9-1.11

⁵ *Ibid*, Paragraphs 1.25-1.30

18. How many more statutory bodies - from the CAA to KCC - need to tell the same story of things not being following through? Appropriate policies not being respected? Noise modelling and other EIS work being based on unsupported assumptions? Work having to be re-done to the point that Wheatcroft is just hanging around the doorway waiting to burst in at any moment?
19. **Right now** and throughout this process, the lack of any credible airport operations experience is *already* **a serious risk and impediment to this DCO**, it's a risk to the examination and it's a significant factor in the Applicant's continued inability to evidence it has the necessary finance and funding in place.
20. The Applicant will no doubt say that it's OK, because they've brought in industry experts to help with the application. But here, again, their **lack of experience and understanding cannot be ignored**.
21. I know you have heard already - and will hear plenty more - about the Azimuth Report and the validity, or otherwise, of Dr Sally Dixon's work. Without even going into that whole minefield here, can you imagine Heathrow or Gatwick or any other experienced airport operator commissioning a report upon which their entire DCO case is based from an **independent freelancer with little or no experience** of success in this field, when the ink on her recently completed PhD is barely even dry?⁶
22. The Applicant will no doubt claim that none of this matters because they have also bought in lots of top notch industry professionals too - they claim they have spent £13 million - although this too, has not been evidenced - on the likes of Osprey and RPS and Northpoint and CBRE.
23. But there is overwhelming evidence that the scope of those consultant's work has been constrained by the Applicant's lack of resources and the optimism bias of the Applicant's preferred 'best case' scenarios.
24. And if - as in this DCO Applicant's case - you don't know what you're doing - if you don't know those "*known unknowns*" and "*unknowns unknowns*" - then the brief and scope you are able to provide to any consultant is also going to be **constrained by that lack of knowledge and experience**. They don't know the right questions to

⁶ [REP3-223](#) Five10Twelve DL3 Submission, Response to Relevant Representations, Paragraph 5

ask because they don't know what they don't know. Even the best consultants are only as good as the brief and scope they are given.

25. As for the lack of resources, even if we generously take the Applicant at its word that they have spent £13m to date, this pales into insignificance in comparison with the £57m that Stansted Airport spent in consultancy fees on its own expansion to 2008⁷.
26. That same Competition Commission report was another one of many which found that Manston, specifically, was not a viable option for South East airport expansion. And, like every other report, this also wasn't for commercial or operational viability reasons - which will always be debatable - but because of its poor location, which is not⁸.
27. In conclusion, there are so many issues with all of this, which - with the greatest respect to the Examining Authority - present you with an **impossible task** in giving the Secretary of State any confidence that the alleged cargo airport 'benefits' can be delivered.
28. My question to the ExA, is whether you can have any confidence whatsoever in recommending that 25 years of previous governmental recommendations and appraisals regarding Manston's viability should be reversed on account of **this** Applicant's say so?
29. Are you ready to put your trust - and ours - in **this** Applicant to successfully deliver, when if things go wrong - as they inevitably will - then just at happened under Mr Freudmann's watch at Odense and at Black Forest Lahr - it will be up to public bodies - and the public purse - to pick up the pieces and repair all the considerable damage that this has caused?

⁷ **Appendix OFH-001** Excerpt from 2009 Competition Commission investigation into BAA Airports market, page 102, paragraph 4.39

⁸ **Appendix OFH-002** Excerpt from 2009 Competition Commission investigation into BAA Airports market, page 98, paragraph 4.15 (e)

Full 2009 Competition Commission Report available at:

https://webarchive.nationalarchives.gov.uk/20140402170726/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/non-inquiry/rep_pub/reports/2009/fulltext/545.pdf)

OFH-001

Excerpt from 2009 Competition Commission investigation into BAA Airports market, page 102, paragraph 4.39

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rejected in October 2007, four years after it was filed, the developer Canatxx filed another application to develop the site in February 2009. There have also been seven leading commercial developments totalling £6.25 billion undertaken over the last few years. Similarly, a number of airport operators across the UK have brought forward significant planning applications since the early 1980s, including: an application of a runway and terminal building in Newham submitted by John Mowlem; an application for a second runway by Manchester Airport; applications by Peel Holdings for the expansion of Liverpool Airport, including a 12 mppa terminal, and later to convert Finningley airfield to commercial aviation. Major international airports, such as Schiphol, Paris Charles de Gaulle and Frankfurt, have also considerably expanded capacity, including runway capacity, over the last 20 years, and although international comparisons are notoriously difficult, we note that several studies have shown that there was little evidence that planning decisions were systematically quicker in other European countries than in the UK.¹⁴

- 4.36 The evidence therefore suggests that the persistent shortage of runway capacity at Heathrow and Gatwick cannot be the result of a cumbersome planning system alone. BAA argued that it was the combination of the planning system and government policy that had caused the shortage of capacity. BAA also considered that a key benefit of common ownership was its ability to secure planning permissions for new airport capacity more effectively than separately-owned airports; and that this superior ability enabled BAA airports to gain planning consent for new capacity faster, and with greater certainty, than would be the case for separately-owned airports or separately-owned airport groups.
- 4.37 We examined a wide range of evidence to test these assertions, with a focus on the interaction of BAA with the planning system and the development of government policy since privatization.

Interaction of BAA with the planning system

- 4.38 BAA told us that its track record in winning planning permission to develop its airports was ‘unblemished’, pointing to its successes at gaining approval for terminal expansion. BAA argued that its planning expertise was derived from common ownership of airports in Scotland and the South-East. BAA told us that its approach to planning inquiries was built on corporate knowledge, with planning expertise being provided by central teams of experts who were directed to projects where and when needed throughout the BAA group.
- 4.39 We note, however, that many of these planning consents (Stansted’s new terminal, Gatwick’s North Terminal and Heathrow’s Terminal 4) were gained prior to the company’s privatization, and that other airport operators, which do not benefit from BAA’s significant central functions, have also been successful at obtaining approval for significant or controversial airport projects. Our review of past planning inquiries, set out in paragraphs 6 to 72 of Appendix 4.4, did not conclude that BAA has been faster or more skilful than other airport operators at securing approval for significant development projects or that the common ownership of several large airports is a significant contributor to planning excellence. We also note that BAA relies on a considerable amount of external expertise to develop its applications, the cost of which far exceeds BAA’s own project costs: for example, the preparation of the Stansted planning application has resulted in consultancy fees totalling £57 million to March 2008. By contrast, BAA’s own project costs totalled £9 million. We considered this expenditure in some detail in [Appendix D of our Stansted Q5 report](#).

¹⁴Barker Review of Land Use Planning—Interim Report, paragraph 3.12.

OFH-002

Excerpt from 2009 Competition Commission investigation into BAA Airports market, page 98, paragraph 4.15 (e)

Full 2009 Competition Commission Report available at:

https://webarchive.nationalarchives.gov.uk/20140402170726/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/non-inquiry/rep_pub/reports/2009/fulltext/545.pdf

ruption and following the changes in security requirements in August 2006. T5 is the first new terminal to be opened at Heathrow since Terminal 4 in 1986; and the first in the BAA London airports since the Stansted terminal in 1991.

- (b) Planning restrictions, reflecting the significant environmental issues associated with large airport development, are particularly important in the South-East. They have manifested themselves through lengthy and costly planning inquiries (eg T5 planning inquiry) or restrictions on the use that can be made of facilities (eg limits on the number of ATMs allowed at Heathrow and Stansted).
- (c) Government policy, as set out in the White Paper and subsequent statements, supports new runway and associated terminal capacity at Heathrow and at Stansted, and may potentially lead to more capacity, subject to environmental requirements being satisfied and the final outcome of planning inquiries, by around 2017 at Stansted and 2020 at Heathrow.
- (d) However, government policy can also constrain development: the 1985 White Paper rejected the possibility of new runways at both Stansted and Gatwick until 1995; in its White Paper, the Government considered that the case for a new runway at Gatwick was not as strong as for the options at Stansted and (subject to meeting the critical environmental conditions) Heathrow. Accordingly, it also concluded that only if there was demonstrably no alternative way forward would it take action to overturn the agreement between BAA and West Sussex County Council not to construct a new runway at Gatwick before 2019 (which we discuss in paragraph 4.45 et seq).
- (e) There are some other existing runways in the South-East (such as Manston, Lydd and Southend), but their existing commercial aviation activity is very small and the proposals to expand their operations of which we are aware are unlikely to provide a significant constraint on the four BAA south-east airports. Market entry in the South-East is also made more difficult by environmental concerns and the fact that the existing airports already occupy the most favourably located acceptable sites. Any remaining acceptable sites are thus likely to be disadvantaged by being remote from London.

- 4.16 BAA argued that taken together planning restrictions and capacity constraints were a feature of the market that potentially adversely affected competition and that a lack of spare capacity would prevent competition between BAA's London airports until new runway capacity was available. BAA acknowledged that:

The combination of rising demand and binding limits on the legal and physical capabilities of airports to handle additional traffic has resulted in unacceptably low levels of service for some passengers. Airports are also severely constrained in their ability to handle further passenger growth with significant potential implications for passengers, airlines and the wider economy.

However, it said that it was addressing this with new infrastructure at all three of its London airports and had previously been successful in delivering capacity expansion at each of its airports. It argued strongly that the CC should not call into question the conclusions of the White Paper, as this ran the risk of undermining its status and might jeopardize the chances of new runway capacity being built.

- 4.17 BA on the other hand argued that: BAA had neglected investment in runway capacity at Heathrow, Heathrow being the only airport in the South-East where the Government had not ruled out runway expansion following the 1985 White Paper;