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Sent: 03 April 2019 17:41
To: Manston Airport <ManstonAirport@planninginspectorate.gov.uk>
Subject: Re: Manston Planning Permission

As part of the examination I would like to challenge the notion that Manston is an existing airport.

RSP has submitted a document to justify their project being a Nationally Important Infrastructure Project (TR020002/APP/2.3). In Section 4 of this document they make the following statement:

"Our case is that the Proposed Development is the alteration of an existing airport rather than the construction of a new one. The airport closed in May 2014, its aerodrome certificate was revoked and many of the support facilities and infrastructure that are essential to allow it to operate were removed or became dilapidated. However, the runway, although unmaintained, is still in existence and will be re-used, and the airport did operate from 1916 until 2014, and has extant planning permission for use as an airport. It would be difficult to justify the premise that Manston was not already 'an airport'."

The applicants concede that the airport closed in 2014 and they concede that much of the infrastructure required to make it operational has been removed. In this sense it is clearly no longer an airport. They refer to an "extant planning permission." Manston has never had planning permission to operate as an airport. When it was owned by the MoD it did not require planning permission. However, at some point in the 1960's the MoD started to allow civilian flights to use the runway. This arrangement was made more formal when a 125 year lease was drawn up for a section of the airfield called the civilian enclave, and Thanet District Council granted planning permission for the current terminal building to be erected. However, it is important to note that this planning permission did not give permission for any flights. The Council did not own, lease or control the runway and, although they might have expected flights to use the terminal, could not give planning permission for any flights to take place. This was entirely at the discretion of the MoD who owned the lease. Under the terms of the lease the MoD was responsible for all air-traffic control, fire and rescue and maintenance of the entire site beyond the civilian enclave.

When the MoD sold Manston in 1998 a company called Wiggins had taken ownership of the 125 year lease on the terminal building. Other potential buyers were not realistically able to bid for the site because they would have been required to provide Wiggins with all of the services which the MoD had been providing up until that time, and would have to continue providing those services for the duration of the lease. So, Wiggins ended up owning the freehold of the airfield. Mr. Freudmann, who is now one of the directors of RSP, was at that time a director of Wiggins. When the airfield was sold I was a member of a protest group. One of the things we wanted was for the new owners to apply for planning permission for the new civilian airport. In this way, we were hoping that some sensible limits could be placed on the nature and scale of aviation activities taking place there, including stringent controls on night flights.

We were disappointed to find that, with no publicity, Thanet District Council had issued a series of Certificates of Lawful Use for the site. The argument used to justify these Certificates was that there had been a long history of unbroken aviation usage of the site, so the new airport would not require planning permission. This was challenged in court via a Judicial Review and a subsequent appeal. The upshot of the court case was that the Certificates were deemed to be legal, largely because it had not been possible to challenge the earlier ones in time because they had been issued in secret. The court case also established that any significant change in the nature and scale of aviation taking place would require planning permission. The court specifically referred to night

flights as an example of a change which would require planning permission. The airport was subsequently open for fifteen years and no planning permission was ever sought. As it was a colossal failure no planning permission was needed because it never expanded beyond the pitiful levels of activity which were taking place when it was privatised. Most of that activity was light aircraft. Nevertheless, the lack of a planning application made it very difficult for the local authority to apply any meaningful controls over activity at the airfield. They drew up a voluntary Section 106 Agreement with the airport operator. This agreement was hopelessly flawed and failed to control the things it was supposed to control throughout the airport's 15 miserable civilian years. It was, in effect, unenforceable because it had never been associated with a planning permission for aviation.

The airfield has been closed for almost five years. I would like to question whether the Certificates of Lawfulness can still be used to justify the legality of Manston as an airport. There is, clearly, no longer a history of unbroken use. In addition the Certificates are bilateral agreement between the owners of the site (SHP) and Thanet District Council (TDC). There is no agreement with RSP and, if TDC and SHP decided to cancel the Certificates, there would be no legal basis for Manston to be used as an airport. The Certificates are not planning permissions and so there is no "extant Planning permission" as RSP has claimed.

I would like to question how the Certificates of Lawfulness could be used to justify RSP's proposals. The scale of aviation they are proposing is an order of magnitude greater than anything which has previously taken place there and is hugely more than was taking place when the Certificates were issued. The Certificates only allowed the airport to continue to be used during the transition from military to civilian usage. They were never intended to permit a significant expansion of activity and the courts made it very clear that any such significant expansion would require planning permission.

In conclusion, Manston does not have, and has never had, permission to be an airport. The legality of its existence rested on Certificates of Lawfulness which were designed to allow it to be transferred from military to civilian use. It has always been understood that any expansion of Manston would require a formal planning application and RSP's plans constitute a significant expansion. If they did not constitute a significant expansion the project could not be classified as a NSIP. If Manston requires planning permission, it requires planning permission to be an airport as no such permission has ever been granted previously. It is no longer possible to rely on Certificates of Lawfulness because these were only valid whilst there was a history of unbroken usage and the airport has not been used as such for five years. Manston is a site which was once used as an airport. It is no longer an airport and any attempt to reopen it would need full planning permission for a new airport, rather than planning permission for expansion of an existing one.

Kind Regards,

Mr. Peter Binding