

RSP

RiverOak Strategic Partners

Agreed (signed) Statement of Common Ground between the Applicant and Thanet District Council

TR020002/D6/SOCG/TDC

Examination Document

Project Name:	Manston Airport Development Consent Order
Application Ref:	TR020002
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MANSTON AIRPORT DEVELOPMENT CONSENT ORDER

Planning Inspectorate Reference: TR020002

Statement of Common Ground

Between

RIVEROAK STRATEGIC PARTNERS LIMITED

and

THANET DISTRICT COUNCIL

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") is between the Applicant and Thanet District Council (TDC) in relation to the application for a development consent order to re-open and operate Manston airport in the district of Thanet in Kent (the 'DCO').
- 1.1.2 The Applicant submitted the DCO application to the Planning Inspectorate on 17 July 2018 and it was accepted for examination on 14 August 2018.
- 1.1.3 The Applicant and TDC 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 application and TDC's interests.
- 1.1.4 This SoCG was originally prepared in response to the request for a SoCG between the parties made by the Planning Inspectorate at Annex F of its Rule 6 letter, dated 11 December 2018, and supplemented by the Rule 8 letter where an additional matter is set out at Annex B. The matters sought to be addressed were based on TDC's relevant representation and included:
- Noise, vibration and air quality impacts on local residents.
 - Transport impact on the district's road network.
 - Air quality impact and related transport movements on the health and well-being of local residents.
 - Economic impact on the district.
 - Land quality impact.
 - Landscape and visual impact.
 - The need for, and possible content of, a Development Consent Obligation under s174 of PA2008.
- 1.1.5 However, TDC requested that the Applicant prepare a further SoCG for its consideration following the submission by TDC of its Local Impact Report (LIR) at Deadline 3 (REP3-010) and the Applicant's Response to the LIR submitted at Deadline 4 (REP4-028).
- 1.1.6 As such, this SoCG has been prepared. However, TDC's LIR (REP3-010) and the Applicant's response to that (REP4-028) were detailed documents, and it has not been practical to capture all detail in a SoCG. As such, this SoCG captures a summary of that detail, with a view to supporting the parties in their continuing discussions. It is hoped that following a review by TDC of the Applicant's comments on the LIR (REP4-028), and the additional material submitted by the Applicant at Deadline 4, many of the outstanding matters between the parties can be resolved.
- 1.1.7 As such, it is envisaged that this SoCG will evolve further throughout the examination of the DCO application. 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 Thanet District Council

- 1.2.1 TDC is the local authority within which the development is located.
- 1.2.2 TDC submitted a relevant representation and a written representation to the Examining Authority. TDC has submitted a LIR to the Examining Authority (REP3-010), to which the Applicant responded at Deadline 4 (REP4-028).
- 1.2.3 As noted in TDC's written representation, the proposal to reopen the airport is supported by the current administration of TDC.

1.3 Status of the SoCG

- 1.3.1 This unsigned but agreed version of the SoCG represents the position between the Applicant and TDC at Deadline 6.

2 Summary of Consultation

- 2.1 Consultation carried out by the Applicant and the way in which it has informed the application for development consent is set out in full in the Consultation Report (APP-075) submitted with the application for development consent.
- 2.2 TDC was included in the pre-application consultation carried out by the Applicant. TDC and the Applicant have continued direct communication in respect of the application for development consent and issues pertinent to TDC's interests throughout the examination stage.

3 Matters which are fully agreed between the parties

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

Table 3.1: Matters which are fully agreed between TDC and the Applicant

SoCG ID	Matter – as noted in TDC's LIR	Extent agreed
3.1 Socio-economic		
3.1.1	"The development has the potential to deliver significant positive socio-economic benefits to the local authority area. Given the Draft Local Plan Policy SP02 seeks to provide a minimum of 5,000 additional jobs over the plan period it is important that the predicted direct and indirect jobs arising from the proposed development are realistic, achievable and robustly assessed."	Agreed
3.1.2	"The proposed DCO boundary includes part of Manston Green which is allocated in the draft Local Plan and has an extant planning permission for 785 dwellings. The permitted scheme makes allowance for the land required for Manston Airport landing lights and so does not appear to be adversely affected by the DCO."	Agreed
3.1.3	"There are likely to be impacts on tourism at the operational stage which will affect local amenity, businesses, the destination and the experience of visitors. Given that tourism is a significant aspect to the local economy in Thanet, it is important that tourists are not deterred from visiting the area both during construction and operational stages of the proposed development."	Agreed

3.1.4	"The operational workers are likely to have a positive economic impact on the local economy."	Agreed
3.2 Noise and Vibration		
3.2.1	"The night flight assessment considers 1 flight per hour. If the frequency or number of flights is greater the effect may be greater."	Agreed. However it should be noted that night flights are further restricted under the revised Noise Mitigation Plan submitted at Deadline 4 (REP4-023).
3.2.2	"The applicant will need to provide... a commitment not to exceed these [night flight] limits or revise the findings of the assessments as otherwise there may be further significant effects than considered in the ES."	Agreed
3.2.3	"Location of designated engine test area to be shown and mitigation for test area to be considered."	Agreed
3.2.4	"Limit of ATMs to be explicitly set out in the dDCO requirements."	Agreed ATM limits are provided in the revised Noise Mitigation Plan submitted at Deadline 4 (REP4-023).

3.2.5	"Night limit of ATMs to be explicitly set out in the dDCO requirements."	Agreed. There is a night limit of ATMs enforced; there is a night flight ban between 23.00- 06.00 as per the Noise Mitigation Plan (REP4-023).
3.3 Air Quality		
3.3.1	"It is considered that the risk of odours has been adequately addressed in the ES. Appropriate mitigation should be included in the OEMP, and secured via a DCO requirement, potentially by specifying the required mitigation, such as proposed in DCO Schedule 2 article 7(2)(a)(viii)."	Agreed
3.3.2	"...it is unclear whether the OEMP will provide sufficient mitigation and how that would be controlled. It is envisaged that a Section 106 agreement would secure funding for a continuous air quality monitoring stations and the use of dispersion modelling to ensure the proposed mitigation measures are effective."	Agreed that a Section 106 agreement is appropriate.
3.4 Land Quality		
3.4.1	"Chapter 17 of the Environmental Statement covers Major Accidents and Disasters, including plane crashes (referred to as air incidents) which have the potential to release pollutants including fuels and fire-retardant foams on and around the runway. Approval from the EA will be required on specific mitigation for containment of pollutants Including any routing of surface run-off via the on-site interceptors."	Agreed

3.4.2	<p>“Article 15 of the Schedule 2 requirements of the draft DCO stipulates that no piling or intrusive works (including drilling) shall be undertaken on the site until a risk assessment and method statement have been submitted to and agreed in writing by the Secretary of State following consultation with Southern Water and the Environment Agency, and that works shall then be carried out in accordance with the method statement. This is a necessary requirement to ensure that intrusive works do not cause pollution of the aquifer or adit, however as with Article 12 of Schedule 2, there is no obligation in the draft DCO requirements for site investigations or monitoring of groundwater quality to be undertaken, which are considered necessary for the protection of human health and groundwater quality.”</p>	<p>Agreed. Monitoring requirements are captured by the CEMP which will be updated to include a specific provision relating to groundwater monitoring.</p>
3.5 Health and Wellbeing		
3.5.1	<p>“A Health Impact Assessment (HIA) has been provided in Appendix 15.1 of the ES and appears adequate in its assessment. Where necessary, the HIA has drawn on data and effects from the relevant chapters in the EIA. Whilst the dDCO does not contain any references to health and well-being it is acknowledged that the factors that affect health and well-being, such as noise and air quality, have been assessed with mitigation proposed in their standalone chapters and have been included in Requirements in the dDCO which have been discussed in the relevant sections of this document.”</p>	<p>Agreed</p>
3.6 Traffic and Transport		
3.6.1	<p>“It is understood that an alternative link road may be provided in which discussions are still ongoing between the Applicant, Kent Highways and TDC.”</p>	<p>Agreed. The Applicant has engaged with KCC Highways to identify an alternative alignment which conforms to</p>

		highways design standards and the standards set by KCC Highways.
3.7 Landscape and Visual		
3.7.1	The Register of Environmental Actions and Commitments proposes a number of mitigation measures linked to the Requirement 10 in the dDCO but states that details regarding the use of building materials, detailing and finish for the roofs and facades of proposed buildings will be submitted when discharging requirements. Therefore, the adequacy of these mitigation measures cannot be fully assessed, however, the dDCO does make provision for these details to be submitted to and approved by the SoS following consultation with local planning authority.	Agreed. Although the Applicant notes that a Design Guide (REP4-024) has been provided, providing further details. However, TDC maintains its stance that it, rather than the SoS should be the approving body for details of mitigation measures.

4 Matters not agreed between the parties

4.1 This section of the SoCG describes the matters not agreed between the parties. The matters are as summarised by TDC in its LIR.

Table 4.1: Matters currently outstanding between TDC and the Applicant

SoCG ID	Matter – as noted in TDC’s LIR	Applicant’s position
4.1.1	The proposed job creation and the direct and indirect socio-economic impacts particularly in relation to housing	<p>A wide range of potential formula were examined to calculate job creation. The Azimuth analysis (APP-085) adopted a 'top-down' approach to employment estimation in line with IATA and ACI guidance; Appendix SE.1.5 of the Applicant's Appendices to Answers to First Written Questions (REP3-187) adopts the alternative 'bottom-up' approach as further justification for the figure of 2,417 jobs that is arrived at by the Azimuth Report. The Azimuth figures include an accompanying explanation of the component elements and the assumptions on which they are based. See the Applicant's response to WQ SE.1.4 for more details of this (REP3-195).</p> <p>It is the stated aim of the Applicant that job vacancies are filled wherever possible by people who already live in the local area. Additional burdens on local services are considered specifically in the ES [APP-034]. This concludes that the majority of construction workers will reside close to the site, i.e. within Kent, and are not expected to relocate. The same conclusion is drawn for operational employees, hence significant additional demands are not expected (see the Comments on Local Impact Reports REP4-028).</p>
4.1.2	<p>The proposed commercial development on the Northern Grass does not appear to be functionally required for operational purposes of the airport</p> <p>The information provided in the Applicant’s Updated NSIP Justification</p>	<p>Annex 4 of the Updated NSIP Justification Document (January 2019) (TR020002/D1/2.3) explains why the commercial development on the Northern Grass land is required to support the nationally significant infrastructure project (NSIP), and is therefore associated development as defined in the Planning Act 2008.</p> <p>Requirement 19 was added to the dDCO at Deadline 5 – it links Works 15, 16 and 17 to the nationally significant infrastructure project consisting of Works 1 to 11 and 13, requiring the development of the</p>

	<p>does not provide convincing evidence that this development should be treated as associated development within the meaning of the Act.</p> <p>Work nos. 15-17 inclusive would allow the development of up to 116,000sqm of B1 and B8 general employment floorspace. However, there is no requirement in the dDCO for these aspects of the development to be airport-related or for the all the works to be constructed.</p> <p>TDC does not share the Applicant's view that the Northern Grass is previously developed land.</p>	<p>former works to support the operation of the latter, mirroring the test used in the DCLG Guidance on Associated Development. For clarification, a further update to the dDCO to define 'airport-related' will be included in the dDCO submitted at Deadline 6.</p> <p>The Applicant disagrees that any part of the Northern Grass should be considered to be greenfield as there is historic use as an airfield going back to the middle of the 20th Century and the site has long been established as being within the airport boundary.</p>
4.1.3	<p>Noise and vibration impacts on residential, school and community receptors from daytime and night time noise levels, particularly those located within 1km of the airport and under the flight swathes</p>	<p>The revised Noise Mitigation Plan (NMP) (REP4-023) as submitted at Deadline 4 provides for measures for schools and community buildings through the Community Trust Fund (see Paragraph 9 of NMP) and Consultative Committee (see Paragraph 8 of NMP).</p> <p>The Community Consultative Committee shall be the body responsive for making recommendations to the airport operator regarding claims for noise insulation and ventilation, relocation and administering applications to the Community Trust Fund. It will be comprised of representatives from Thanet District Council, Dover District Council, Canterbury City Council and community representatives. The types of project envisaged for the Community Trust Fund include grants for schools aimed at enhancing the teaching environment and grants relating to the creation or enhancement of public outdoor spaces.</p>

4.1.4	Noise mitigation considerations for heritage assets	The potential effects on heritage assets were assessed in Chapter 9: Historic Environment of the ES (APP-033). Appendix HE.1.2 of the Applicant's Appendices to Answers to First Written Questions (REP3-187) summarises the potential harm to designated and non-designated heritage assets.
4.1.5	The impacts on the Thanet Urban AQMA and the need for continuous air quality monitoring stations and funding to ensure the effectiveness of the proposed mitigation	The Thanet Urban AQMA is considered in Chapter 6: Air Quality of the ES (APP-033) and the Applicant has agreed to fund a continuous monitoring station.
4.1.6	Generic proposals for contamination which are insufficient in demonstrating significant effects can be avoided	"The need for further investigation of potential contamination investigation prior to commencement of construction is embedded in the DCO requirements (Requirement 11, APP-006) . There is sufficient evidence of past uses of the airport to establish likely risks and mitigation measures. It would not be practical nor appropriate to undertake further detailed assessment prior to the grant of the DCO. Indeed the Environment Agency and Southern Water have directly requested that intrusive investigations are not undertaken (see the Statements of Common Ground with the Environment Agency (REP4-005) and Southern Water (REP4-009)).
4.1.7	The assessment of the landscape value as being low and lack of full methodology and mitigation	The Applicant is content that the landscape assessment (APP-034) is sufficiently robust. At Deadline 4, a Design Guide (REP4-024) was submitted that provides further details on proposed landscaping. Detailed methodology for the approach adhered to for the photomontages is described on page 46 of the Comments on Local Impact Reports (REP4-028).
4.1.8	The need for further site investigation in the Northern Grass Area	Further site investigation of the northern grass area is captured by the DCO requirements (Requirement 11, APP-006) which will ensure that both heritage/archaeology investigations and ground conditions/contamination will be undertaken prior to commencement of construction.

4.1.9	The conflict between the delivery of draft Policy SP47 – Strategic Routes which includes a relief road from Manston Court Road to Manston Road – B2050 that crosses the Northern Grass.	This point is in discussion with KCC and will be reflected in the revised TA submitted at Deadline 5. The Applicant remains of the view that a route through the middle of the Northern Grass is not appropriate in the context of the aviation related development proposed, however the Applicant has worked with KCC to develop an alternative route alignment which will deliver the same strategic function.
4.1.10	An underestimation of the impact on Climate Change in relation to the objectives set out in Aviation 2050: The Future of UK Aviation	A climate change assessment (APP-034) has been carried out and a framework Climate Change Adaptation Strategy submitted at Deadline 4 (REP4-033). It should be noted that Climate Change is an industry wide issue that will be addressed by a variety of policy interventions as well as project specific interventions. The Applicant has undertaken to manage emissions and adopt climate change adaptation measures in line what is reasonably possible in the context of an airport project.
4.1.11	The lack of accordane with certain policies of both the adopted and local plan	The applicant disagrees that the proposed development does not accord with local policies. A number of references to policy non-compliance were made in the LIR and this has been addressed in the Applicant's comments on the LIR (REP4-028).
4.1.12	"The DCO application has articles for the development to be in accordance with CEMP, OEMP and NMP but these documents are not finalised (or produced in the case of the OEMP) and therefore TDC should be consulted on the content of these documents and be the approving body."	It is agreed that TDC should be consulted on these documents however, the Applicant's position is that due to the breadth of their content the SoS is the appropriate approving body.

4.1.13	<p>“Further measures consistent with the relevant IAQM guidance should be incorporated in the Dust Management Plan to ensure that the risk of significant dust impacts is fully mitigated. This should be secured via a DCO requirement, potentially by specifying the required mitigation in a CEMP, such as proposed in DCO Schedule 2 articles 6 and 7(2)(a)(viii).”</p>	<p>It is agreed by the Applicant that the Dust Management Plan should be based on the latest IAQM guidance. However, the CEMP is a live document requiring approval by the SoS and this process is captured by the DCO (Requirement 6 of the Draft DCO).</p>
4.1.12	<p>TDC, rather than the SoS, should be the approving body for details of mitigation measures.</p>	<p>The Applicant’s position is that the SoS is the appropriate approving body. The local authority has neither the capacity nor the resource to act in this role, particularly given the breadth of the subject matter. TDC wholly disagrees with this assertion, and can demonstrate previous experience having been the discharging authority on the Richborough Connection Project DCO.</p>
4.1.13	<p>The definition of “maintain” as set out in Article 2 is too broad and could allow significant future development without sufficient planning controls.</p>	<p>The Applicant’s position is that the definition of “maintain” set out at Article 2(1) has been drafted to include those actions that are properly considered by the Applicant to be maintenance for the purposes of the authorised development. The definition at Article 2(1) provides additional assurance on this by stipulating that those actions only fall within the definition of “maintain” to the extent that they are <i>“unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement”</i>. The Applicant considers that it is therefore highly unlikely that the definition could allow for “significant future development”.</p>
4.1.14	<p>To avoid confusion, Requirement 17 should also be amended by adding the underlined text (or wording to a similar effect) below.</p>	<p>The Applicant would resist this amendment, which clouds rather than clarifies the position. The Requirement does not create a power to amend, so it is redundant to include the suggested text. In any event, it is unclear in what circumstances a discharging authority would approve amendments, where no power is provided to do so within the Order. Furthermore, any resultant action would constitute a</p>

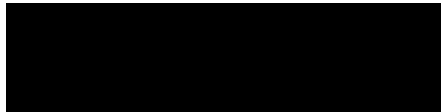
	<p><i>With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in writing <u>where such amendments are permitted elsewhere in this Order.</u></i></p>	<p>statutory breach. The drafting of the Requirement as it is within the dDCO is standard to other Orders, and is well-understood.</p>
4.1.15	<p>TDC consider that provisions for discharging requirements at paragraphs 18(2) and 18(3) of dDCO Part 2 allowing automatic approval of requirements submitted but not determined within a period of 8 weeks should be removed.</p>	<p>The Applicant considers that the removal of these provisions would put the project timetable at risk. The Applicant considers that the period of 8 weeks is sufficiently long, such that it is unlikely that paragraph 18(2) will need to be relied upon. However, its inclusion is necessary to protect the project timetable. The Applicant considers paragraph 18(2) to be appropriately caveated by paragraph 18(3) which ensures that the deemed approval mechanism does not apply to applications relating to matters which would give rise to any materially new or materially worse environmental effects than those reported in the environmental statement. In those circumstances, the application is taken to have been refused by the Secretary of State.</p>

Signed on Behalf of RIVEROAK STRATEGIC PARTNERS LIMITED

Signature:



Name:



Position:

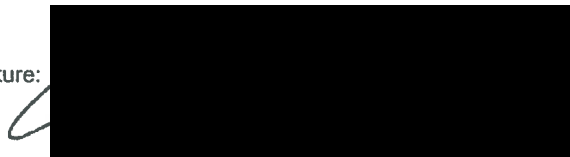
Director

Date:

2nd May 2019

Signed on Behalf of the THANET DISTRICT COUNCIL

Signature:



Name:



Position:

PLANNING APPLICATIONS MANAGER

Date:

1st May 2019