

DEADLINE 7 SUBMISSION**STONE HILL PARK LTD'S COMMENTS ON THE APPLICANT'S RESPONSE TO EXA'S SECOND WRITTEN QUESTIONS****PINS APPLICATION REFERENCE: TR020002**

Please find below SHP's comments on the Applicant's Answers to Second Written Questions [REP6-012].

In view of both (i) the degree to which comments are necessary as a consequence of the Applicant's approach to responding the written questions; and (ii) the very short time available in the examination timetable to provide comments, SHP has necessarily concentrated its comments on certain key areas. This is without prejudice to its case that other aspects of the application proposals remain fundamentally flawed.

In its submission, SHP has provided detailed comments where it considers the Applicant's answers have been disingenuous, misleading, incomplete or, at best, ill informed. Where such concerns have been raised, these have been supported by evidence contained within the comments and the supporting appendices.

SHP's comments have been prepared with assistance of its advisory team, however we would note that comments prepared by York Aviation have been extracted from a standalone note that is attached as Appendix 1. York Aviation has principally commented on points of relevance to the need case and the forecasts of usage for the development that underpin the entire NSIP Justification, including the assessment of socio-economic impacts.

Written Question Ec.2.2

Ecological Surveys

What is the current status of the outstanding ecology surveys?

The Applicant's Response

The Section 53 Notice of Entry permitted access to the site on 4 December 2018. Survey work comprised an external assessment of some of the buildings on site for bats. A subsequent Section 53 Notice permitted entry from 7 January until 1 March 2019. Surveys were undertaken between 17 January 2019 and 31 January 2019 and included those for winter heliotrope and commencement of bat hibernation surveys.

Unfortunately, it has not been possible to complete the full suite of ecological surveys as expected as the Section 53 notice was revoked in mid-February 2019 preventing further access to land controlled by Stone Hill Park Ltd. The Applicant acknowledges that a payment to Stone Hill Park for £1,584 was delayed as a result of an administrative error however, this was rectified in good time and it was hoped that access for the surveys would not be revoked.

A number of attempts were made to arrange access to the site with Stone Hill Park Ltd, however, these attempts were unsuccessful and as such it has not been possible to access the site since February 2019.

It is now expected that access to the site will not be granted to the Applicant until after the Development Consent Order (DCO) has been made. Requirement 8 of the DCO has been put in place as a pre-commencement condition, to allow confirmation of the worst-case scenario assessed in the ES [APP-033] prior to commencement of construction works. It should be noted that since the ES [APP-033] was submitted, the ecological surveys carried out by Stone Hill Park Limited (SHP Ltd) have been made public and they confirm that the worst-case scenario reported in the Applicants ES [APP-033] is indeed highly conservative. The work carried out by SHP Ltd on the application for 3,700 residential dwellings, employment floor space and associated infrastructure can be found on the planning portal (Planning application reference: OL/TH/18/0660). It therefore remains the view of the Applicant that the worst-case scenario considered in the ES [APP-033] is highly conservative and that the provision for circa 38ha of mitigation land as defined in the Mitigation and Habitat Creation Plan (Appendix 7.5 [APP-045] of the ES [APP-033]) will be sufficient to mitigate the ecological effects of the Proposed Development.

SHP Comments on the Applicant's Response

SHP provided a detailed response to this question in its Response to Second Written Questions submitted at Deadline 6 [REP6-053].

As evidenced by SHP's response, the assertions made by the Applicant are highly misleading.

Of particular concern is the Applicant's claim that a *"number of attempts were made to arrange access to the site with Stone Hill Park Ltd, however, these attempts were unsuccessful and as such it has not been possible to access the site since February 2019."*

The evidence shows this claim to be completely baseless. It is a matter of fact (as substantiated in SHP's evidence included with REP6-053) that in the 72 days that passed since SHP's emails to BDB and Wood dated 20 February 2019, neither the Applicant nor its advisers, even acknowledged or responded to SHP's email correspondence. SHP would challenge the Applicant to submit, to the examination, any evidence that would substantiate its claim to have made *"a number of attempts"* to arrange access after the s53 authorisation had terminated in February 2019.

SHP would further note that it is now clear that, for some time, the Applicant has had no intention of meeting the commitments given at DL1 [REP1-001] to undertake the many outstanding ecology and biodiversity surveys and submit further information required by the examination. SHP would also note that the Applicant has also made a number of assertions in its response that are unsupported by any detailed explanation or actual evidence.

Written Question CA.2.16

Representations from Affected Persons Provide details of negotiations with those Affected Persons who have submitted representations and who are not covered by other questions and comment on the likelihood of reaching an agreement on this in advance of the end of the Examination on or before 9 July 2019:

- Barry James Morris
- Kent Facilities
- The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge
- Stone Hill Park Ltd
- Robin Willi[]

The Applicant's Response

Note: only the section relevant to SHP is shown below.

Stone Hill Park

The Applicant can confirm that discussions as to the acquisition of the site continue to take place between the parties. The Applicant will continue to progress discussions with a view to concluding the acquisition before the end of the examination period. It has been and remains the Applicant's preference to acquire the site by agreement rather than relying on powers of compulsion.

SHP Comments on the Applicant's Response

SHP consider the Applicant's answer to be misleading, disingenuous and unsupported by the evidence.

SHP would refer the ExA to the detailed answer provided by SHP in its response to written question CA.2.17 submitted at DL6 [REP6-053].

As set out in SHP's answer, the Applicant's strategy appears to have been focussed on maintaining a pretence to the ExA that it is making meaningful attempts to negotiate to acquire SHP's land, when the opposite is true.

SHP's answer demonstrates that the Applicant's unsubstantiated assertions that discussions between the parties "*continue to take place*" and that it "*will continue to progress discussions with a view to concluding the acquisition before the end of the examination period*" are wholly disingenuous.

The Applicant has demonstrated itself to be an unreliable counterparty. From the evidence before the examination it appears clear that the Applicant does not have the ability, willingness or sufficient funding to acquire the land.

As demonstrated by the wide body of evidence before the examination, the Applicant has shown a complete disregard for the DCLG Guidance related to procedures for the compulsory acquisition of land (2013) and the interests of affected landowners throughout this whole process.

Written Question CA.2.18

Associated Development: Land Requirement - Works Nos. 15, 16 and 17

The April 2013 DCLG Guidance on associated development applications for major infrastructure projects states that:

“The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development.”

Following the discussions at the Issue Specific Hearing on the draft DCO held in January 2019, the revised version of the draft Development Consent has added the words “airport-related” to the descriptions of Works Nos. 15-17 in Schedule 1.

The revised draft DCO does not define ‘airport related’. Provide a definition of ‘airport related’ as it applies to the proposed scheme.

The Applicant’s Response

Requirement 19 was added to the dDCO at DL5 – 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 former works to support the operation of the latter, mirroring the test used in the DCLG Guidance on Associated Development.

A definition of ‘Airport-related’ for the purposes of Requirement 19 in Part 1 of Schedule 2 of the dDCO has been submitted at DL6 as development directly related to, or associated with, or supportive of operations at Manston Airport including, but not limited to, offices for various support functions and freight forwarders, freight distribution centres, flight catering, car hire activities, maintenance and valeting operations, support functions for aircraft maintenance, airline training centres, airline computer centres, security facilities, business aviation facilities and storage facilities for airlines.

SHP Comments on the Applicant’s Response

It is noted that the Applicant’s new requirement 19 added to the dDCO at DL5, rules out many of the types of activity the Applicant stated it was seeking to attract to the Northern Grass area in paragraph 14 of Annex 4 of its Updated NSIP Justification [REP1-005] including;

- passenger airline offices and crew facilities
- offices and flight planning facilities for flight schools;
- catering operation for passenger flights;
- covered secure and valet parking operations;
- rental car operators – overnight garage, cleaning and office facilities;
- garage and offices for airside public transport providers;
- airport taxi company garage, cleaning and office facilities;

- offices and warehousing for storage associated with MRO and aircraft recycling (including parting out) operations.

However, the Applicant has now added a new definition of 'Airport-related' in the dDCO submitted at DL6. This new definition is extremely wide. It would cover those uses outlined above, but would conflict with the Requirement 19, as many of the examples given would not *"support the operation of Work No.'s 1 to 11 and 13"* and would further conflict with the requirements of the relevant April 2013 DCLG guidance on associated development.

As noted in the ExA's question, ***"The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development."***

Therefore, the first step is to understand what the principal development (i.e. the NSIP development) comprises. However, the Applicant has still not provided the examination with the explanation and justification of the Works that form the NSIP development and the Works that comprise Association Development, despite the request made by the ExA and the commitment given by the Applicant at the dDCO hearing held on 10 January 2019.

As SHP has demonstrated through its submissions, the list provided by the Applicant of the NSIP Development Works (1-11 and 13) does not comply with the requirements of Section 23(5)(b) of the PA2008. As a result, the Applicant's starting point (being the extent of the NSIP development) used for its assessment of associated development is wrong.

Under the PA2008, only development that has the requisite effect referred to in section 23(5)(b) which is *"to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services"*, could be classified as the principal development. Any development that does not have this requisite effect is therefore **not** part of the principal development. Section 115(1) of the PA2008 is clear that there are only **two** categories of development for which development consent may be granted. These are (a) development for which development consent **is required**, or (b) associated development.

As set out in SHP's multiple submissions on these matters, many of the works asserted by the Applicant to be NSIP development would have no effect on the airport's ability to operate air cargo movements whatsoever. Rather than repeat our previous submissions, we would refer the ExA to SHP's answer to written question DCO.2.33 [REP6-053], which summarises the issues that would need to be considered by the ExA and provides a list of SHP's detailed, evidence based submissions on the applicability of the Applicant's purported NSIP development and Associated Development.

As stated in the Guidance, associated development *"requires a direct relationship between associated development and the principal development."* It is therefore clear how the examples given in Annex B of the April 2013 DCLG Guidance, *"Freight distribution centre, including freight forwarding and temporary storage facilities"*, would be an acceptable form of associated development, whereas most of the examples given by the Applicant would not.

The definition of 'airport related' added at DL6 by the Applicant, drives a coach and horses through the DCLG Guidance.

Basically, through its new wording added to the dDCO, the Applicant apparently believes that development need only be related to, associated with, or supportive of operations of an airport (whether that be related to cargo, passenger, business aviation, flight training etc).

The Applicant's complete lack of understanding of the Guidance is why SHP has repeatedly requested that the Applicant honour the commitment it gave to provide an explanation and justification of the works that form the NSIP development and associated development, so that its application can be subject of proper scrutiny.

Written Question CA.2.19

Associated Development: Land Requirement - Works Nos. 15, 16 and 17

The DCLG Guidance on associated development applications for major infrastructure projects states that:

“Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant....”

Appendix 10 of Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices, submitted at DL5 on 29 March 2019 [REP5–029], states at paragraph 2.1 that:

“At this point, it is difficult to ascertain who will be occupying a specific amount of space, and on what terms that tenant will be looking for. The applicant has been in extensive conversations with potential end-users to occupy space on the Northern Grass for Airport related purposes, however, these conversations remain commercially confidential.”

Explain how this statement serves to reassure the ExA that the test in Guidance is being met.

The Applicant's Response

The Northern Grass is of a type that is necessary support for the airport, and if it is not on the Northern Grass it will be required elsewhere, albeit in a less suitable location. The Northern Grass is the most suitable location for such development as it is brownfield land adjacent to the airport and is allocated for airport use in the local plan. If the development does not take place on the Northern Grass then it is likely to arise further afield in a piecemeal and uncontrolled manner with a worse impact on the local area and less efficient interaction with the airport, and so it is in the public interest that as much of it as possible is sited on the Northern Grass.

The fact that the precise nature of the development likely to take place on the Northern Grass is not yet known does not mean that it is only necessary for a source of additional revenue, which it is not. While it will bring revenue, that is not the only reason for the proposed associated development on the Northern Grass, as set out above.

SHP Comments on the Applicant's Response

The Applicant's answer provides no reassurance to the ExA that the Guidance test is being met.

The Applicant is still unable to explain what the development on the Northern Grass will comprise - this partly explains why it has sought to widen the type of development that would be permitted (see SHP comments on question CA.2.18 above).

Nor has the Applicant been able to provide any justification for the overall scale or the nature and scale of its individual components

As SHP has set out in its previous submissions, the ExA does not have before it documentation which is fit for purpose and SHP has not, by definition, had the opportunity to properly understand, test or make representations in relation to a case being made against it for the compulsory acquisition of its land.

Also noted below are further comments extracted from York Aviation note (see Appendix 1):

"The Applicant's response fails to address the extent to which the proposed development on the Northern Grass is likely and/or intended to provide a cross subsidy to the principal development. If there was a need for such uses to support the operation of Manston Airport, for which we can find no supporting evidenced based on airport operations elsewhere (see comments on the answer to OP.2.5), the suggestion that such facilities would need to be located elsewhere on an unplanned basis is simply not relevant. The Applicant has failed to substantiate the need for the proposed quantum of development on the Northern Grass. The answer given is nothing more than obfuscation."

Written Question CA.2.25

Acquiring by voluntary agreement

DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at paragraph 25 that, as a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices, submitted at DL5 on 29 March 2019 [REP5-029], states at paragraph 12.3 that:

"SHP had suggested that the Applicant lease the site for a period. Mr Freudmann inaccurately summarised the offer as being for 25 years. In fact it was for 125 years."

The length of the potential lease appeared from Mr Freudmann's comments to be a clear factor in RSP's decision on this offer.

If this is not the case, set out the reasons for RSP's decision on the suggestion by SHP that the Applicant lease the site.

The Applicant's Response

The Applicant understood the lease proposed by SHP to be for a period of 125 years at the time the proposal was received. At the CA hearing Mr Freudmann misspoke regarding the length of the proposed lease. The duration of the proposed lease was not a reason for refusing the offer. As noted in the Applicant's Written Summary of Case put Orally – Compulsory Acquisition Hearing [REP5-011], the Applicant's letter responding to the offer and setting out its concerns regarding the offer was included by SHP as an appendix to its Responses to Written Questions. For ease of reference, the letter (dated 21 March 2018) is attached (at Appendix CA.2.25 in TR20002/D6/SWQ/Appendices). It can be seen from the attached that there were a number of issues with the offer raised by the Applicant to which SHP did not respond satisfactorily. It was in light of those unacceptable conditions that the proposal was not accepted. In any event, the Applicant and SHP have been in negotiations regarding the site's freehold for some time. The Applicant is hopeful that these negotiations can be concluded satisfactorily shortly.

SHP Comments on the Applicant's Response

There are a number of points to unpack from the Applicant's answer.

Firstly, Mr Freudmann more than "misspoke" regarding the length of the lease, his assertion that a 25 year lease was "absurd" demonstrates the lack of good faith which has characterised any "negotiations".

Secondly, the Applicant did not refuse the offer, it simply ignored SHP's subsequent letter of 9 April 2018. In doing so, the Applicant showed it had no regard for its obligations under the DCLG Guidance.

The Applicant refers to its letter of 21 March 2018, which it asserts sets out its concerns regarding the offer. The Applicant then asserts that SHP did not respond satisfactorily, and in light of the "unacceptable conditions" the proposal was not accepted. This assertion is misleading and not supported by the evidence.

The Applicant has glossed over the correspondence from SHP to BDB dated 9 April 2018, which responded to the BDB letter of 21 March 2018. This letter of 9 April 2018 is, apparently, the unsatisfactory response referred to in the Applicant's answer. The sections of this letter (attached as Appendix CA.2.7 to SHP's Response to First Written Questions [REP3-303]) that are relevant to the lease offer are summarised below;

Section 5:

- SHP explained that the framework set out in the letter of 15 March 2018 was a clear framework to move matters forward but that the onus must be on the Applicant to engage with SHP, not the other way round;
- SHP requested that RSP explain why it had said "*any encumbrances attached to the lease would have to allow the development of the site unhindered and equivalent to owning the freehold*"; and

- SHP requested clarification whether the Applicant would be willing to accept a specific restriction against any future residential development of the land.

Section 6:

- In the Conclusion section, SHP stated the following;

“If RSP is serious about actually delivering its proposals, the potential lease structure we set out is a solution that would provide an opportunity to resolve the issue and draw a line under the position. Ultimately, if RSP fails to engage with us on this basis, it will be even clearer that it is not serious about its proposals. If that remains the case it is clear that your client’s failure to comply with paragraph 25 of the Guidance related to the compulsory purchase of land will remain only one of the many reasons why an application for development consent order would not satisfy the requirements of section 55 of the Planning Act 2008.”

As explained above, the Applicant did not respond to, or even acknowledge the letter of 9 April 2018. The Applicant clearly believed that it was under no obligation to comply with the DCLG Guidance related to procedures for the compulsory acquisition of land (2013).

Unfortunately, this is just one of the many examples that demonstrates the lack of good faith in which the Applicant has approached the DCO process.

Written Question CA.2.28

The basis for assessing the value of the land for the purposes of Article 9 was discussed at the CAH held on 20 March 2019.

At that CAH, a representative of the Applicant, Mr Smith from CBRE, indicated a relationship between the estimation of value and the designation of, and policies relevant to, the site of the proposed scheme in Thanet DC’s emerging local plan.

The Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices states at Appendix 1, paragraph 3 that:

“The Applicant has allowed for a quantum of contingency sufficient to accommodate such a change in Thanet District Council’s emerging plan.”

i. State, the amount of contingency allowed for in the estimate of value.

The ExA notes that the Written Summary of Stone Hill Park Ltd’s (SHP) Oral Submissions put at the Compulsory Acquisition Hearing held on 20 March 2019, submitted at DL5 on 29 March [REP5-029] restates part of Appendix 6: Compensation Assessment to SHP’s Written Representations [REP3-025].

In paragraph 8.2, Avison Young (formerly GVA) states:

“The compensation provision made in RSP’s funding statement is insufficient to meet the compensation obligations resulting from a made DCO. It is important to note that RSP’s most recent offer of £20m excludes any value associated with residential development potential, demonstrating the need for RSP’s funding provision and business case to be reassessed to reflect significantly higher compensation liabilities.”

ii. Provide a reasoned response to this statement.

The Applicant’s Response

i. Contingency for such changes is included in the land compensation figure of £7.5m. It is not possible to quantify what element of that total corresponds to such a contingency, as contingency is inherent in any assessment of ‘hope value’. In any event in this case the potential changes to the Thanet District Council Local Plan will have no bearing on the level of compensation. The site is not being promoted for any particular use in the emerging Local Plan but it remains in the countryside where there is a general emerging policy presumption against inappropriate development which by definition is harmful to the countryside especially where adverse environmental effects cannot be avoided or mitigated. The site will not become a housing allocation as it is not needed to meet TDC’s housing needs. However, the Local Plan Inspectors have recommended the need for a ‘contingency policy’ in the emerging Local Plan so that the site is safeguarded for aviation uses through policies in the emerging Local Plan until the outcome of the DCO is known. Policy text is currently being drafted for discussion at the Local Plan Examination on 31st May 2019. Notwithstanding this, the Applicant’s consultants (CBRE and RPS) believe the Stone Hill Park project to be undeliverable and contrary to relevant planning policies so the prospects of securing a planning permission for housing redevelopment are very slim. Therefore the emerging local plan policies will have no effect on the land value.

ii. RSP’s offer to acquire the land was not based on its value but rather a commercial decision to remove the majority of the land subject to compulsory acquisition. As mentioned above, the Applicant’s consultants do not believe that a residential development is deliverable at the site, nor is the site being promoted in the emerging Thanet Local Plan for housing and therefore its value does not reflect such a development.

SHP Comments on the Applicant’s Response

i. Once again, the Applicant’s answer is considered to be lacking in veracity. The answer is also inconsistent with the Applicant’s answer to question G.2.1.

Firstly, the Applicant has not directly answered the question, instead adopting a strategy of obfuscation.

Secondly, in stating that *“the Local Plan Inspectors have recommended the need for a ‘contingency policy’ in the emerging Local Plan so that the site is safeguarded for aviation uses through policies in the emerging Local Plan until the outcome of the DCO is known”*, the Applicant has misrepresented the Local Plan Inspectors and in doing so, has misled the ExA.

Thanet DC’s evidence base does not justify a policy safeguarding the site for aviation use and the position taken forward in the Local Plan is one of ‘complete neutrality’ over the future of the airport site to allow the DCO process to be concluded without prejudice. Whilst the Local Plan Inspectors did recommend that the new Local Plan needed to have a section that addressed the Manston site and included a some form of policy pending a full review, the local plan Inspectors most certainly **did not** recommend *“that the site is safeguarded for aviation purposes”*. It is completely disingenuous for the Applicant to make such a claim.

Thirdly, the Applicant also ignores the fact the future of the site will be subject of a review following adoption of the new local plan, and as SHP noted in its response to question G.2.1 submitted at DL6, Counsel for Thanet DC noted at the local plan examination hearings that if the DCO process fails it obviously opens up huge opportunities for the Council to plan housing growth in the long term. This is not consistent with the Applicant’s assertions.

Fourthly, the Applicant makes certain assertions about its consultants’ beliefs, but provides no evidence to substantiate these assertions. There is a significant difference between assertions supported by detailed supporting evidence, and unsubstantiated assertions, the latter being the approach consistently adopted by the Applicant.

- ii. The Applicant has not provided any reasoned explanation, or provided any evidence whatsoever, to support the assertion that residential development is not deliverable on SHP’s land.

The comments made above in (i), regarding the potential for the site to address Thanet DC’s housing growth challenges and the Applicant’s continued approach of making unevicenced assertions, are also equally relevant here.

Written Question CA.2.29

In the Written Summary of SHP’s Oral Submissions put at the CAH held on 20 March 2019, submitted at DL5 on 29 March [REP5-029] SHP state at paragraph 7.6 that:

“The Applicant should not be able to rely on the powers in the Compulsory Purchase (Vesting Declarations) Act 1981, as amended by Article 26, in respect of SHP’s land. These powers, where they would relate to any of SHP’s freehold land, are wholly inappropriate.”

Comment on this statement and for the reasons given for it in the SHP submission.

The Applicant's Response

The Applicant does not consider that there is any reason why SHP's land should be able to be acquired by General Vesting Declaration rather than Notice to Treat in the event that compulsory acquisition powers are granted. The reasons given are that (a) the Applicant should be satisfied that SHP owns the land, and (b) the Applicant may abuse the process and give an unduly low estimate of compensation so that it need only pay a low amount in an advance payment. The Applicant rejects these assertions.

While the Applicant has engaged in diligent enquiry to establish the owners of the land it is possible that undiscovered owners of land or rights may still exist, which could be acquired using the GVD method. Almost every DCO allows the GVD method to be used despite diligent enquiry having been employed to establish ownership in those cases; there is no special reason for not doing so in this case.

The Applicant has employed CBRE, one of the leading companies advising on compulsory acquisition valuations, and should be entitled to rely on its advice. To suggest otherwise would be to cast doubt on the reliability of such a company, and by extension, other companies providing expert advice.

SHP Comments on the Applicant's Response

In its answer, the Applicant firstly accepts SHP's position by stating that it *"does not consider that there is any reason why SHP's land should be able to be acquired by General Vesting Declaration rather than Notice to Treat in the event that compulsory acquisition powers are granted."*

However, the Applicant then immediately contradicts this position by saying it rejects the reasons given by SHP and goes on to make a case why GVD should also be allowed on the basis that it *"is possible that undiscovered owners of land or rights may still exist"*.

In its comments, the Applicant has given generic reasons for why GVD method may be required in DCOs, rather than address the ExA's question, which requested the Applicant focus its comments on SHP's statement that GVD should not apply to SHP's land. It appears that the Applicant has chosen to answer a different question from that posed by the ExA, on the basis it is completely unable to provide any explanation or justification why the GVD method would need to apply to the freehold land interests held by SHP.

For the avoidance of doubt, SHP is not suggesting a blanket restriction against the use of GVD method. It is perfectly understandable that the Applicant would seek GVD rights over other parts of the DCO order land where the interests are small, and fragmented (e.g. land relating to the pipeline) to address the risk that *"undiscovered owners of land or rights may still exist"*.

However, for the reasons set out in the Written Summary of SHP's Oral Submissions put at the CAH held on 20 March 2019 [REP5-0290], there must be a specific carve out of the land interests held by SHP, which are registered at the Land Registry under a number of specific title numbers.

Without prejudice to SHP's case, specifically carving out these freehold land interests held by SHP, would both address SHP's concerns on this matter and provide the Applicant with the flexibility it is seeking.

With reference to the Applicant's last assertion regarding its reliance on CBRE advice, we would note the following.

- The Applicant has not submitted any evidence to the examination from CBRE that can be adequately and fairly tested;
- Instead, the Applicant has made a series of assertions about what the CBRE advice states, without supporting evidence;
- When the subject of even the most basic testing, the Applicant's assertions regarding the CBRE advice has been proven to be flawed. For example, in its Funding Statement [APP-013] the Applicant stated (paragraph 16) that it had obtained advice from surveyors CBRE about the total costs of acquiring the land for the project. However, at the CA Hearing on 20 March 2019, the Applicant claimed the figure provided by CBRE did not include any allowance for the Jentex site, land for which the Applicant was seeking powers of compulsory acquisition. The two positions are mutually exclusive, therefore the Applicant's assertions regarding the CBRE advice are demonstrably false in at least one of these cases.
- In communications between CBRE and SHP's adviser, Avison Young (previously known as GVA), attached as Appendix CA.2.7 to SHP's Response to First Written Questions [REP3-303], it is clear that CBRE materially understated (by c. 180 acres) the level of SHP's land ownership, and did not have an understanding of the status of the emerging local plan or the offer its client made to acquire the SHP land (that it has made no effort to progress over the last months).
- As neither the CBRE advice, nor the underlying information on which that advice would need to be based, has been submitted to the examination as supporting evidence for the Applicant's assertions, it is not possible to test anything, including whether CBRE were given accurate information by the Applicant.
- In view of the manner in which the Applicant has materially exaggerated and misrepresented the significance of evidence that has been made publically available (e.g. the "PWC letter"), in the absence of proper evidence, the ExA can have no confidence that (i) the Applicant has characterised the CBRE advice accurately and (ii) the information provided to CBRE, on which its advice was based, was complete and accurate.

Written Question CA.2.31

In the Written Summary of SHP's Oral Submissions put at the Compulsory Acquisition Hearing held on 20 March 2019, submitted at DL5 on 29 March [REP5-index number to be allocated] SHP state at paragraph 7.3, with reference to Article 18 (Authority to survey and investigate the land) that:

"...the wide powers sought by the Applicant to survey and investigate land are inappropriate and are likely to have a blighting impact on land held by SHP."

i. Comment on this statement.

ii. Have such possible blighting effects been taken into account in your estimate of possible compensation payable and reflected in the figure in Article 9?

The Applicant's Response

- i. The powers contained in article 18 will only become available if and when the DCO is granted; they cannot have a blighting effect now, and are indeed equivalent to those in section 53 of the Planning Act 2008. Indeed, the Department for Transport has recently carried out extensive works at the site which are much greater in extent than such surveying powers would entail. If the Applicant is granted the DCO and it contains compulsory acquisition powers over Stone Hill Park's land it will exercise those powers very soon after the DCO and so any blighting effect would be very short-lived. In any event Stone Hill Park has no entitlement to statutory blight as it does not have a qualifying interest and there is no general ability to claim compensation for blight.
- ii. As set out above this is not a valid head of claim, and even if it were it would be for a very short duration and hence a very low amount.

SHP Comments on the Applicant's Response

- i. SHP has a commercial agreement with the Department for Transport under which it is being remunerated. It is not clear why the Applicant can consider the undertaking of works as part of a commercial agreement with a Government department is remotely comparable with the granting of unrestrained access rights to an entity such as the Applicant, which has such an unacceptable track record regarding access.

As the evidence before the examination clearly demonstrates (e.g. SHP's response to question Ec.2.2 [REP6-053]), where the Secretary of State set out conditions in the s53 authorisations that were considered necessary to protect the legitimate land interests of the landowners, the Applicant had no regard to them. The evidence further suggests that the Applicant accessed the SHP land unlawfully in 2017, the Applicant made unfounded threats of criminal sanctions against SHP, the Applicant ignored Inspectorate's advice and has materially breached every authorisation or agreement related to access that it has ever had the benefit of.

Written Question DCO.2.10

Associated Development

The Revised 2.1 Draft Development Consent Order submitted at DL5 on 29 March 2019 [REP5-index number to be allocated] has added a definition of associated development as follows:

““associated development” has the same meaning as in section 115 (development for which development consent may be granted) of the 2008 Act”

S115 (2) of the 2008 Planning Act states that: ““Associated development” means development which is associated with the development”

Explain how the introduction of this definition supports your categorisation of ‘associated development’ in, inter alia, Schedule 1 of the Revised 2.1 Draft Development Consent Order submitted at DL5 on 29 March 2019 [REP5-index number to be allocated].

The Applicant's Response

'Associated development' has a general meaning in the Planning Act 2008. There is nothing in the Act or in guidance stating that associated development is 'necessary' or 'required' for the nationally significant infrastructure project (NSIP). It is clear that development at an airport that is not part of the NSIP but is airport-related is 'associated' with the NSIP by virtue of being of a similar nature, part of a single project, and only included because of the existence of the NSIP, as is the case here. The guidance only states that it should support the operation of the NSIP (amongst other things), as in this case.

SHP Comments on the Applicant's Response

The Applicant must surely realise that the breadth, nature, scale and type of associated development proposed by the Applicant is not remotely comparable with anything that has been recommended for approval or authorised by the Secretary of State and, requires the closest scrutiny.

However, the nature of its answer demonstrates why it has been unable to meet the request of the ExA, and the commitment it gave at the dDCO hearing on 10 January 2019, to provide the examination with the explanation and justification of the Works that form the NSIP development and the Works that comprise Association Development.

There are so many parts of the Applicant's answer that are just plain wrong.

Firstly, as York Aviation note in their comments in Appendix 1, and as set out in previous comments, *"the Act requires associated development to be directly related to the principal development. It is not sufficient for such development to be merely "associated" with the principal development."*

We would strongly recommend that the Applicant review sections 5 of Appendix 1: Rebuttal of NSIP Justification appended to SHP's Written Representations [REP3-025] to gain a detailed understanding of the DCLG Guidance on associated development, the application of its four core principles and an evidence based reasoned assessment that demonstrates the associated development proposed by the Applicant does not comply with Guidance. We would note that the Applicant has not sought to refute any of the submissions made by SHP on this matter and the ExA has not directed any questions to SHP on its submissions - the Rebuttal of NSIP Justification has been supplemented by multiple submissions by SHP (please refer to SHP's comments on the Applicant's answer to CA.2.18).

In the context of compulsory acquisition, it is remarkable that the Applicant has not even attempted to justify the necessity for its extensive claimed associated development.

Written Question DCO.2.17

Article 9 - Guarantees in respect of payment of compensation, etc. The Revised 2.1 Draft Development Consent Order submitted at DL5 on 29 March 2019 [REP5-index number to be allocated] includes “a guarantee by a parent company of the undertaker” in Article 9(2)(f).

Which company will be the parent company of the undertaker?

The Applicant’s Response

The undertaker, i.e. the Applicant, does not have a single parent company, but is 90% owned by RiverOak Investments (UK) Ltd and 10% owned by RiverOak Manston Ltd.

SHP Comments on the Applicant’s Response

Based on the publically available information held at Companies House, RiverOak Investments (UK) Ltd and RiverOak Manston Ltd, have called up share capital of £1,000 and £1 respectively, however all the capital remains unpaid.

Between them, the two companies have invested a total of £nil into the Applicant.

As noted in SHP’s comments on the Applicant’s answer to question F.2.19, all funding has been made by the Belize entity, M.I.O. Investments Ltd. Yet, the Applicant refuses to provide any transparency over the ownership, or funding of this company.

Written Question DCO.2.25

Article 18 - Authority to survey and investigate the land

The ExA is considering amending Article 18(7)(a) to read “*Operation Stack has been declared by Highways England and/or Kent Police*”.

Comment.

The Applicant’s Response

Agreed and updated in DL6 version of the DCO [TR020002/D6/2.1].

SHP Comments on the Applicant's Response

SHP is concerned that the ExA has not made any reference to other required changes to Article 18 as explained in paragraphs 3.3.-3.7 of SHP's submission [REP4-064]. Further information and context was provided in SHP's response to question Ec.2.2 [REP6-053] and further background is provided in SHP's comments on the Applicant's response to question Ec.2.2 above.

In its submissions, SHP has provided detailed evidence of the Applicant's aggressive and unreasonable behaviour, where it appears to have had no regard to any party's interests other than its own.

As the evidence before the examination demonstrates, where the Secretary of State set out conditions in the s53 authorisations that he considered necessary to protect the legitimate land interests of the landowners, the Applicant had no regard to them. The evidence further suggests that the Applicant accessed the SHP land unlawfully, the Applicant made unfounded threats of criminal sanctions against SHP, the Applicant ignored Inspectorate's advice and has materially breached every authorisation or agreement that related to access.

With regard to the specific provisions of Article 18, we would refer the ExA to SHP's Cover letter to its DL4 Submission [REP4-064], particularly paragraphs, 3.3, 3.6 and 3.7, extracts of which are given below;

"3.3 The wide powers of access sought are inappropriate and are likely to have a blighting impact on land held by SHP and other landowners. In its revised Explanatory Memorandum (paragraph 3.44), the Applicant argues that it is required in order to "remove the necessity to compulsorily acquire that land and thus reduce the land brought within the Order limits." Whilst this may be the case for small areas of land, it is certainly not the case for the land interests held by Stone Hill Park Ltd, which are critical for the Applicant's plans. The primary intent of the drafting would be to appear to be delay the point at which the Applicant is required to acquire land, effectively giving itself a 5 year Option. The effect of this Article is one of blighting, as it has the potential to restrict the ability of landowners to undertake commercial operations on its land or impinge on the existing commercial operations, including for many years. At the very least, this Article should not apply to land interest held by Stone Hill Park Ltd."

"3.6 It is noted that the Applicant has provided some drafting under sub headings 7 and 8 in Article 18 relating to the temporary suspension of the right of access to survey when Operation Brock or Operation Stack are in place. Firstly, we would note that the purpose is overly restrictive and fails to consider other circumstances where access would need to be restricted under the Operation Stack/Brock agreement (e.g. site preparation or development works). Secondly, as the services are provided by SHP under a Parking Services Agreement, any notification would be required to be delivered by SHP, rather than the Secretary of State. Thirdly, the drafting fails to include the protective Conditions that the Secretary of State for Housing, Communities and Local Government considered necessary to protect the Landowner's and Occupier's legitimate interests under its prior s53 authorisations.

"3.7 Given the Applicant's consistent history of breaching the terms of previous authorisations agreements that provided for access to the land and the aggressive tactics it has employed regarding access over the last two years (e.g. including disregarding clear advice from the Inspectorate and

DCLG in pursuing its aggressive attempts to access the land under s.172 of the Housing and Planning Act 2016), wide ranging powers of the type sought by the Applicant would be highly prejudicial to any landowners or occupiers of the land.”

The Applicant has ignored SHP’s comments in its latest draft. SHP also note that the drafting of ExA’s DCO does not appear to reflect any of the issues raised in SHP’s submissions.

Written Question DCO.2.33

Schedule 1: Authorised Development

Justify the inclusion of Work No.12 — The construction of a new passenger terminal facility with a maximum building height of 15m under ‘Associated Development’ rather than under the s14 and 23 list of works

The Applicant’s Response

The NSIP is to increase the capability of the airport to provide cargo facilities – the passenger terminal is therefore not part of that but is rather classified as associated development. The increase in passengers will not reach the threshold of 10 million per annum that would make it an NSIP in its own right.

SHP Comments on the Applicant’s Response

In its answer, the Applicant has accepted the principle set out in SHP’s Response to this question given at DL6 i.e. that for any development to qualify under section 23 of the Planning Act 2008, it must have the requisite effect referred to in section 23(5)(b) which is “to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services”. Any development that does not have this requisite effect is therefore **not** part of the principal development.

We would refer the ExA to sections 5 and 6 of Appendix 1: Rebuttal of NSIP Justification appended to SHP’s Written Representations [REP3-025] and our previous DL6 response to this question. These extensive submissions clearly demonstrate (with supporting evidence) that there are many elements of the proposed development that the Applicant has listed as NSIP development that do not meet the required criteria under s23 of the Planning Act 2008 and there are also many elements of the purported Associated Development that do not comply with the relevant guidance criteria.

The submissions also note the Applicant’s failure to provide the examination with the explanation and justification of the Works that form the NSIP development and the Works that comprise Association Development, despite the request made by the ExA and the commitment given by the Applicant at the dDCO hearing held on 10 January 2019. The only conclusion that can be reached, is that the Applicant is unable to explain, justify and evidence their assertions.

Written Question DCO.2.34

Schedule 1: Authorised Development

The Revised 2.1 Draft Development Consent Order submitted at DL5 on 29 March 2019 [REP5-index number to be allocated] includes the words “airport related” within the description of Works Nos. 15, 16 and 17.

Show how the references to Use Classes B1 and B8 serve to ensure that these works are ‘airport related’.

The Applicant’s Response

The references to classes B1 and B8 do not serve to ensure that the works are airport-related (which is ensured by the use of the word ‘airport-related’), but restrict the use classes that are permitted to the two specified. Requirement 19 of the DCO ensures that works 15, 16 and 17 must only be developed and used to support the operation of the NSIP.

SHP Comments on the Applicant’s Response

As noted in SHP’s comments on the Applicant’s responses to CA.2.18 and DCO.2.10, the Applicant’s answer is contradictory. The new definition of ‘Airport Related’ development is far wider than the development that would be permitted by Requirement 19. If the Applicant had invested the time in preparing an explanation and justification of the purported associated development, as it had committed to do (in response to a direct request from the ExA), it would have a greater understanding of the type of development that could be authorised under the Planning Act 2008.

Written Question DCO.2.44

Schedule 2 – Requirements

Requirement 19 - Airport-related commercial facilities

Requirement 19 - Airport-related commercial facilities states that:

“Works Nos. 15, 16 and 17 must only be developed and used to support the operation of Works Nos. 1 to 11 and 13.”

The ExA note that the word ‘support’ is used in April 2013 MHCLG Guidance on associated development applications for major infrastructure projects.

- i. Define, including through the use of examples, what is meant by “support” in this Requirement.
- ii. How would this ensure that works 15, 16 and 17 are required for aviation purposes?

The Applicant's Response

- i. The word support is, as has been noted, intended to reflect the use of the word in MHCLG guidance on associated development to avoid any charge that Works 15 to 17 are not compliant with such guidance. The guidance does not explain the meaning of support in that context; the Applicant therefore understands it to have its ordinary meaning of 'strengthen, maintain' (Collins), i.e. the facilities provided by those works would, together with the airside facilities, provide a more complete service for the airport's cargo customers.
- ii. By supporting works that are a nationally significant infrastructure project concerning aviation, this wording would ensure that they were for aviation purposes (although note that the word 'required' does not appear in the guidance). To make doubly sure, however, each work is additionally required to be 'aviation-related'.

SHP Comments on the Applicant's Response

- i. In commenting on the Applicant's answer, it is important to set out the context in which "support" is used in the April 2013 MHCLG Guidance. "Support" is only referred to in the main document in paragraphs 5(i) and 6.

Paragraph 5(i) of states;

"The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts."

Paragraph 6 states;

"It is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project, for example (where consistent with the core principles above), a grid connection for a commercial power station."

In paragraph 5(i), "support" is used as a means of further explaining what constitutes a "direct relationship between associated development and the principal development." Therefore, in this context, there must be a direct relationship and associated development should support either the construction or operation of the principal development (i.e. the NSIP development) – it is not an either / or situation. In this case, the principal development comprises only development that has the requisite effect referred to in section 23(5)(b) which is "to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services".

In paragraph 6, “support” used as a means of giving an example of what type of development would be considered associated development. The Guidance uses the example of a grid connection for a commercial power station. It is clear that a direct relationship exists and that the grid connection would support the operation of the NSIP. Without it, the NSIP would not be able to operate.

If the Applicant was serious about trying to assist the examination, it should have sought to provide reasoned explanation of how its proposed development is in line with the examples set out in Annex A and Annex B of the Guidance, and then referred to other examples of similar types of associated development that have been included within other DCOs that have been recommended and/or approved by the Secretary of State. However, it is obvious that the Applicant’s proposed associated development is not consistent with the core principles of the MHCLG Guidance and there are no examples it can point to. Hence, it has not been able to provide justification.

In the final part of its answer, the Applicant does at least acknowledge that Works 15 to 17 would have to show a direct link to how they support cargo operations, which would rule out many of its proposed uses. As explained in SHP’s comments on the Applicant’s answer to CA.2.18 (above), there a large parts of the proposed associated development that do not have a direct relationship with or support cargo operations and therefore would not qualify as associated development.

ii. In its answer, the Applicant uses the phrase “[B]y supporting works that are a nationally significant infrastructure project concerning aviation”.

As York Aviation comment in Appendix 1, “the exemplar uses given in the proposed definition of aviation related include uses totally unrelated to providing “a more complete service for the airport’s cargo customers”. Given the clear requirement for associated development to be directly related to the operation of the principal (in this case cargo) development, it is important that there is absolute clarity in the DCO as to the appropriate test and its applicability.”

As set out out above and more fully in SHP’s comments on question CA.2.18, it is clear that under the legislation and relevant Guidance there must be a direct relationship - it is not sufficient for the Works to only have a link to anything aviation or airport related.

Written Question DCO.2.46

Additional Articles or Requirements

The ExA is considering inserting a new Article under principal Powers which specified that the operation of the airport is subject to a total annual air transport movement limit and is subject to a total annual General Aviation movement limit. The quantum of these limits will be set out by the ExA in further drafts of the DCO following further Examination through Written Questions and Issue Specific Hearings.

Comment

The Applicant's Response

It is the Applicant's view that having the limits in the Noise Mitigation Plan (as at present) and requiring the development to be operated in accordance with the Noise Mitigation Plan, a certified document, has the same legal effect as having the limits in the DCO itself. The Applicant believes that having all noise mitigation measures (which an ATM limit would principally be) in once place would be more convenient.

SHP Comments on the Applicant's Response

SHP understands that the Applicant may find it "*more convenient*" to have the limit in the Noise Mitigation Plan. However, the limit is not only relevant to noise and should be included in the dDCO. The Applicant has given no reasoned explanation as to why the limits should not be in the dDCO itself.

Written Question DCO.2.49

Additional Articles or Requirements

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated] states at paragraph 10.1 that:

"The Applicant does not agree with SHP's proposals for inclusion in the dDCO, except that it would be prepared to adopt the equivalent to the Crichel Down rules in relation to SHP's interest."

Provide possible drafting for inclusion in the draft DCO embedding the principles inherent in the Crichel Down rules.

The Applicant's Response

Suggested article 19(3) and (4) (not currently included in latest draft):

(3) The undertaker will treat the Crichel Down Rules as applying to land acquired by it under this article it as if it were a UK government department.

(4) In this article 'Crichel Down Rules' means the rules contained in 'Guidance on Compulsory purchase process and the Crichel Down Rules' published by the Ministry of Housing, Communities and Local Government in February 2018 or any successor to such rules.

SHP Comments on the Applicant's Response

The Applicant's suggested inclusions are wholly inappropriate.

With regard to its proposed article 19(4), it is important to note that the rules contained in ‘Guidance on Compulsory purchase process and the Crichel Down Rules’ (February 2018) have been drafted to apply to Government departments, that must operate to certain standards, are accountable and where there is transparency and accountability over its actions.

The Applicant is a SPV that is wholly funded (and majority owned) by anonymous investors – as noted in SHP’s comments above on DCO.2.17, neither of the Applicant’s shareholders, RiverOak Manston Ltd or RiverOak Investments (UK) Ltd, has invested any funds. The Applicant has actively resisted transparency, and many of its submissions have been shown to be highly misleading as evidenced throughout SHP’s submissions.

SHP also note the degree to which certain statutory bodies have been required to make submissions that challenge the veracity of the Applicant’s assertions about certain matters. Even if the rules were appropriate for this specific situation (which they are not), the ExA and affected parties could have no confidence that the Applicant would abide by the obligations (and spirit) of the relevant Guidance.

As noted above, the rules contained in the Guidance are not appropriate for this particular set of circumstances and SHP has provided its proposed appropriate provisions (and rationale) in its response to this question in its DL6 submission.

Written Question F.2.1

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.1 that:

“restructuring was estimated to be complete by the end of April.”

The Applicant must note that the ExA require that any answers to these second questions to be submitted at DL6 (3 May 2019) must reflect and be informed by that completed restructuring.

The Applicant’s Response

Noted. Restructuring has now been completed.

SHP Comments on the Applicant’s Response

It is worth noting that in the Applicant’s Response for DL1: Enclosure 1 to Main Letter re. s51 Advice on Funding it stated that:

“The Applicant has recognised that the lack of transparency in relation to the Belize entity in particular has given rise to a number of questions.”

It is therefore literally incredible that the Applicant considers the so-called restructuring to have improved the level of transparency. A review of the information submitted by the Applicant at DL6 and other publically available information shows;

1. The only change is that the 9,000 shares in the Applicant (each with a nominal value of £0.0001) that were previously held by MIO Investments Ltd have been transferred to, RiverOak Investments (UK) Ltd ,a new UK SPV incorporated on 23 April 2019. That UK SPV is now owned 60% by a BVI company, HLX Nominees Ltd, on which no information is available (although when undertaking a search on Google, the company is named in the Panama papers leaks).
2. The 9,000 shares that were transferred had a nominal value of only £0.90.
3. It is considered highly unlikely that the transfer price of these shares was anything other than £0.90, as the shares in the Applicant (which have a total nominal value of £1), have no intrinsic value.
4. The true value of the Applicant's shares is the cumulative sum of the value of the shares in each of its subsidiaries. However, as all the expenses, costs and investments of these entities have been fully funded by loans from MIO Investments Ltd (now claimed by the Applicant to exceed £15m), it is not possible to see how there could be any value in the shares of the Applicant's subsidiary companies.
5. As explained by Mr Rothwell at the CA hearing on 20 March 2019, the only "assets" held by the RiverOak companies is the Jentex land it acquired in 2018, which is owned by RiverOak Fuels Limited. MIO Investments Ltd, as providers of the loan to RiverOak Fuels Ltd, would require to have its loan fully repaid (with interest, fees and costs), which significantly exceeds the £2.3m paid for the land, before any value would attach to its shares.
6. The same would be true of the other loans claimed to be provided to RiverOak Operations Limited. Based on the Applicant's recent submissions, these loans appear to be total c.£12.5m. As there are no assets in RiverOak Operations Ltd, the shares have no intrinsic value.
7. It is important to note that ALL the funding has been provided by the Belize based MIO Investments Ltd on which no relevant information has been provided. The Applicant intends that MIO will continue to provide funding but provides no evidence to support its assertion.
8. In SHP's DL6 6 Submissions in SHP's comments on the Applicant's written summary of oral submissions put at the CA hearing [REP6-052], SHP set out a number of issues / concerns regarding the JV Agreement, why it does not say what the Applicant says it does and why the £15m "loan agreement" is essentially meaningless as any payments are completely at the discretion of MIO Investments under the terms of the wider documentation.

In summary, it is clear that the Applicant has done nothing meaningfully to improve transparency.

The majority beneficial ownership of the Applicant's shares has simply been transferred from MIO to another offshore company. The new UK SPV provides no more transparency. Furthermore, as the sum total of the equity investment by the shareholders of the Applicant appears to be £1 (yet to be paid), the information on the funders is of more relevance than the shareholding entities that have made no investment and provided zero funding.

In section 2.3 and 2.10 of SHP's comments on the Applicant's written summary of oral submissions put at the CA hearing [REP6-052], an explanation of the Joint Venture Agreement submitted by the Applicant at DL5 was provided.

In summary, the documentation shows that M.I.O. Investments (as Capital Investor as defined in the JV Agreement) effectively retains veto rights over any material action of the Applicant. As provider of all the funding, over which it has full discretion, in absence of any other funder to replace MIO Investments, MIO Investments has control over the decision making of the Applicant. Yet, no relevant information has been disclosed on MIO Investments.

It is also clear that the new investors heralded by the Applicant throughout the examination phase have not materialised.

Written Question F.2.2

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated] states at paragraph 3.1 that:

"restructuring was estimated to be complete by the end of April."

The Applicant must note that the ExA require that any answers to these second questions must be accompanied by an Updated Funding Statement (in both tracked and clean versions) with an explanation of, and a justification for, any changes between it and the submitted version [APP-013]

The Applicant's Response

A revised Funding Statement is provided at DL6 (reference TR020002/D6/3.2 clean copy; TR020002/D6/3.2T tracked copy preceded by explanation of the changes).

SHP Comments on the Applicant's Response

SHP would note the revised Funding Statement is wholly underwhelming.

It adds nothing of any substance that would allow the Applicant's application to be fairly and adequately tested. The deficiencies in the Funding Statement are manifest and the changes have largely been addressed through SHP's comments on the Applicant's answers to these written questions on Funding matters, and also in part through SHP's DL6 submissions, SHP's Comments on the Applicant's Written summary of oral submissions put at the Compulsory Acquisition hearing held on 20 March 2019 [REP6-052] and SHP responses to the Examining Authority's Second Written Questions [REP6-053].

Written Question F.2.3

The Applicant is reminded that Regulation 5(2)(h) requires that an application be accompanied by a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded.

The Applicant is further reminded that DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at para. 9 that the applicant should be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available.

The Applicant is reminded that information in the public domain at <http://rsp.co.uk/news/the-formation-and-funding-of-riveroak-strategic-partners/> states that:

"comprehensive details of our funding partners and investment arrangements will of course be provided to PINS as part of the DCO application, providing solid evidence of our ability to meet all of the financial obligations associated with the acquisition, reopening and operation of the airport."

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

"...the investors wished to remain confidential..."

- i. Explain how this latter statement conforms to, and supports, a system of Examination which is designed to be open and transparent.**
- ii. Explain how this latter statement confirms to RSP's own commitment to provide comprehensive details of its funding partners.**
- iii. Suggest ways in which the ExA may recommend to the Secretary of State on issues surrounding the availability of funding in the face of a desire for confidentiality relating to that issue.**

The Applicant's Response

i. and ii. The Applicant acknowledges the Planning Inspectorate's desire for openness and transparency in the examination process. The Applicant has sought to provide sufficient information in all instances to assist the ExA in its examination of this application. However, the ExA will equally appreciate the unavoidable constraints of commercial confidentiality, particularly in the context where private individuals are involved in funding the project and investing in major infrastructure.

A balance must be struck between providing sufficient information to the ExA to enable it properly to consider the application and report to the Secretary of State whilst at the same time protecting the commercial interests of investors.

Plainly it is in the national interest to encourage private investment in infrastructure which is to the benefit of the UK economy. Indeed it was to encourage this kind of investment that Business Investment Relief was introduced in 2012. Business Investment Relief is an HMRC-approved scheme introduced to encourage non-domiciled UK residents to invest in the UK and does not require those using it to be disclosed. For the ExA to insist on full disclosure of those individual investors has the potential to undermine this type of investment in the UK.

iii. If the ExA has any residual concerns as to the funding position following DL6, the Applicant suggests that it provides the ExA with an unredacted statement, identifying the individuals who have invested and are committed to further investment, together with a version where such confidential information is redacted. The ExA then takes the former into account and publishes the latter. If it does not wish to take information into account that is not openly available then it leaves the issue to the Secretary of State to decide (e.g. in the form of a recommendation to grant the DCO subject to the Secretary of State being satisfied as to the availability of funding).

SHP Comments on the Applicant's Response

i. and ii. The Applicant's claim that *"has sought to provide sufficient information in all instances to assist the ExA in its examination of this application"* is disingenuous and is contrary to evidence submitted to the examination.

It is apparent that the Applicant was given section 51 advice well before it submitted its application, and again following acceptance of its application on 14 August 2018 regarding the Inspectorate's concerns regarding the information on Funding. Yet, the Applicant has consistently failed to provide the examination with the requested information.

In its answer, the Applicant appears to be advocating for a "Wild West" approach, whereby any legitimate concerns and the ExA's commitments to openness, transparency and impartiality should be put to one side so as not to risk investment in the UK from anonymous "non-dom" investors. These "investors" are seeking to deprive another party of its land.

The Applicant's arguments have no merit, and when considered in the proper context – against a backdrop where the Applicant has continually failed to provide requested information to the examination and other submissions have not been substantiated and shown to lack veracity – appear to be part of the Applicant's strategy to obfuscate and avoid scrutiny of its application.

iii. The Applicant's suggestion that should the ExA not wish to take information into account information that is not openly available, it should leave *"the issue to the Secretary of State to decide (e.g. in the form of a recommendation to grant the DCO subject to the Secretary of State being satisfied as to the availability of funding)"*, is plainly ludicrous and demonstrates an arrogance towards the process. It would be in clear breach of the

‘Guidance for the examinations for development consent’ (March 2015) and undermine the principles of fairness, transparency, impartiality and proportionality and would be prejudicial to the interests of other parties.

Written Question F.2.4

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated] states at paragraph 3.2 that:

“The Applicant’s intention is that RiverOak Manston Limited, a UK registered company, would be its sole owner”

Information in the public domain, held at Companies House, shows that, at 18 July 2018, RiverOak Manston Limited (Company number 10286975) had a share capital of 4 shares at £1.00 each and that the accounts for a dormant company were made up to 31 July 2017 were filed on 11 April 2018.

- i. State whether Manston Limited is still a dormant company.
- ii. Provide filed accounts made up to 31 July 2018 or later.

The Applicant’s Response

The restructuring that has recently taken place has resulted in MIO transferring its interest in RiverOak Strategic Partners Limited to RiverOak Investments (UK) Limited, a newly incorporated company registered in the UK. The result of this is that RiverOak Strategic Partners Limited is now owned as to 90% by RiverOak Investments (UK) Limited and as to 10% by RiverOak Manston Limited. The revised group structure is shown at Appendix F.2.4 in TR020002/D6/SWQ/Appendices.

- i. Neither RiverOak Investments (UK) Limited nor RiverOak Manston Limited are dormant companies. As the letter from RSP’s accountants confirms (at Appendix F.2.4 in TR020002/D6/SWQ/Appendices), RiverOak Manston Limited and RiverOak Investments (UK) Limited are both investment holding companies.
- ii. The filed accounts for RiverOak Manston Limited are at Appendix F.2.4 part C (in TR020002/D6/SWQ/Appendices). As this is an investment holding company rather than a trading company these accounts do not have a profit and loss statement.

SHP Comments on the Applicant’s Response

- i. RiverOak Manston Ltd filed dormant company accounts on 15 April 2019 for the year ended 31 July 2018. These accounts show the Company had called up capital (not paid) of £4. Note a to the accounts states that *“For the year ending 31 July 2018 the company was entitled to exemption under section 480 of the Companies Act 2006 relating to dormant companies.”*

Whilst the letter at Appendix 2.4 part B does state that the company has not been classified as a dormant company due to the holding of investments, it is assumed that this is just a classification provided by Calder & Co for the purposes of its own table.

It would be helpful if the Applicant could provide clarification, or at least an explanation as to how, under the Companies Act 2006, a company be both dormant and “not dormant” at the same time.

It is also important to note that, based on Companies House records, none of the accounts filed by the RiverOak entities have been audited. This is despite Mr Freudmann making numerous references to “RiverOak’s auditors” at the Compulsory Acquisition hearing.

Written Question F.2.5

Information in the public domain, held at Companies House, shows that the filed accounts for the Applicant, RSP Ltd, a dormant company, are those made up to 31 July 2017.

Provide filed accounts made up to 31 July 2018 or later.

The Applicant’s Response

RSP Ltd is not a dormant company within the meaning of the Companies Act - see the letter from accountants (at Appendix F.2.4 in TR020002/D6/SWQ/Appendices). The filed accounts up to 31 July 2018 are provided at Appendix F.2.5 (in TR020002/D6/SWQ/Appendices).

SHP Comments on the Applicant’s Response

RiverOak Strategic Partners Ltd filed dormant company accounts on 15 April 2019 for the year ended 31 July 2018. These accounts show the Company had called up capital (not paid) of £1.

Note a to the accounts states that *“For the year ending 31 July 2018 the company was entitled to exemption under section 480 of the Companies Act 2006 relating to dormant companies.”*

Whilst the letter at Appendix 2.4 part B does state that the company has not been classified as a dormant company due to the holding of investments, is this just a classification provided by Calder & Co for the purposes of its own table?

It would be helpful if the Applicant could provide clarification, or at least an explanation as to how, under the Companies Act 2006, a company be both dormant and “not dormant” at the same time.

It is also important to note that, based on Companies House records, none of the accounts filed by the RiverOak entities have been audited. This is despite Mr Freudmann making numerous references to “RiverOak’s auditors” at the Compulsory Acquisition hearing.

Written Question F.2.6

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] has omitted any reference to the answers given at the Compulsory Acquisition hearing related to the Applicant’s subsidiary companies and other related companies.

Your answer to our question F.1.2 states that:

“The Applicant, RiverOak Strategic Partners Limited, has three subsidiary companies: RiverOak Operations Limited, RiverOak AL Limited and RiverOak Fuels Limited.”

- i. Provide filed accounts made up to 31 July 2018 or later for the three companies listed in the Applicant’s response to ExA question F.1.2: RiverOak Operations Limited, RiverOak AL Limited and RiverOak Fuels Limited.
- ii. Confirm whether RiverOak MSE Limited should be added to the list of subsidiary companies.
- iii. If so, provide filed accounts made up to 31 July 2018 or later for RiverOak MSE Limited.

The Applicant’s Response

- i. The filed accounts for RiverOak AL Limited up to 31 July 2018 are provided at Appendix F.2.6 (in TR020002/D6/SWQ/Appendices) The accounts for RiverOak Operations Limited up to 31 July 2018 are not yet available for the reasons explained in the account’s letter at Appendix. RiverOak Fuels Limited (which owns the Jentex site) is a newly incorporated company and has not yet completed a year’s trading. Therefore it has no filed accounts.
- ii. Yes. RiverOak MSE Limited should be added to the list of subsidiary companies and now appears on the organogram at Appendix F.2.4.
- iii. RiverOak MSE Limited is a newly incorporated company established to acquire the title to the airport site. It has been trading for less than a year. Therefore it has no filed accounts.
- iv. An organogram of the companies’ structure is provided at Appendix F.2.4 part A (in TR020002/D6/SWQ/Appendices). RiverOak Investments (UK) Limited and RiverOak Manston Limited are holding companies that own the Applicant, RSP Limited. RSP Limited is also a holding company which holds 100% interest in four subsidiary companies; RiverOak AL Limited, RiverOak Operations Limited, RiverOak Fuels Limited and RiverOak MSE Limited.

RiverOak AL Limited is a trading company and holds the lease on the approach lights on the eastern end of the runway. RiverOak Operations Limited is a trading company that will be responsible for the operation of the airport in the event that the DCO is granted. RiverOak Fuels Limited is a newly established company that acquired title to the Jentex fuel site in September 2018. RiverOak MSE Limited is a newly established company that is intended to hold the title to the freehold of the airport.

v. As explained above RiverOak Strategic Partners Ltd is the undertaker.

SHP Comments on the Applicant's Response

i. It is noted that the Applicant has chosen not to supply accounts for RiverOak Operations Ltd for its year ending 31 August 2018. As the Companies House deadline for submitting these accounts is 31 May 2019, it is concerning that the Applicant has been unwilling to provide information to the examination. Unlike the accounts of the other companies referred to in questions 2.4 and 2.5, at least the accounts of RiverOak Operations Ltd would show more than just £1 or £4 of (unpaid) share capital.

It is also important to note that, based on Companies House records, none of the accounts filed by the RiverOak entities have been audited. This is despite Mr Freudmann making numerous references to "RiverOak's auditors" at the Compulsory Acquisition hearing.

ii. No comment required

iii. Whilst RiverOak MSE Ltd has not filed accounts, there is no reason why the Applicant could not provide up to date management accounts. Indeed, given the historic nature of all financial information provided, there is no reason why the Applicant could not have provided management accounts for the period to 31 March 2019 for all relevant companies. However, it has chosen not to facilitate the examination.

iv. The Applicant has provided an organogram and provided a brief explanation of the roles. However, it would be far more revealing if the Applicant was to give an explanation as why the companies have been structured in this way.

It has not done so, however, one explanation would be that the "investors" have sought to separate out assets from liabilities, so that in any financial distress position, assets are held in a different company from the liabilities, thereby ensuring that arms-length creditors would have no recourse to the assets. For example;

- RiverOak AL Ltd holds a lease that has certain payment liabilities and no assets. In the event that RiverOak AL Ltd is not provided with funding to continue making the lease payments, the creditor would ordinarily have no right of recourse against any other RiverOak entity or any assets they held.

- RiverOak Fuels Ltd holds the Jentex land. However, no creditors of any other RiverOak companies would have recourse against this assets of this company.
- RiverOak Operations Ltd. This company appears to be the Company incurring the ongoing costs of the DCO. It has no assets and is reliant on discretionary funding from MIO. Therefore, in a situation where the Applicant withdrew from the DCO, any creditors of this company would ordinarily have no recourse to any other company in the RiverOak group.
- RiverOak Strategic Partners Ltd. This Company has no assets and no funds. It is however, exposed to the liabilities that relate to its role as Applicant, e.g. successful costs awards, remaining payments due to the Planning Inspectorate for the costs of the examination.

With no net asset value, and no intrinsic value in any of the subsidiary companies (given MIO Loans would have first right on any distributions), creditors or potential creditors of the Applicant would be wholly reliant on the discretion of the shareholders or funders of the Applicant for payment.

As neither RiverOak Manston Ltd nor RiverOak Investment (UK) Ltd have invested any funding to date (based on the information before the examination), it would seem highly unlikely that they would fund any of the Applicant's liabilities. Similarly, it would appear highly unlikely that MIO Investments or its anonymous investors would elect to settle any outstanding liabilities due by the Applicant. Accordingly, there is no evidence of any financial standing.

Written Question F.2.8

Information in the public domain, held at Companies House, shows that note 10 to the Financial Statements for Freudmann Tipple International Ltd for the period ended 30th March 2018 states that:

"During the year, the company held funds in trust for Riveroak Operations Limited, a company of which Mr A Freudmann is a director. At the balance sheet date, the company held £588,906."

The Applicant's response to ExA question F.1.2 [REP3-195] lists RiverOak Operations Limited as a subsidiary company of the Applicant.

- Describe the relationship between the Applicant and Freudmann Tipple International Ltd.
- State the amount held in trust for Riveroak Operations Limited by Freudmann Tipple International Ltd as at 30th March 2019.
- State the purpose for which these funds are held.

The Applicant's Response

- i. The relationship between the Applicant and Freudmann Tipple International Ltd relates to the provision of banking services. Pursuant to the trust deed (at Appendix F.2.8 in TR020002/D6/SWQ/Appendices) between the Applicant and Antony Freudmann, the Applicant has the exclusive use of the bank account of FTI Limited, referred to at recital A of the trust deed.
- ii. The amount varies from the time to time. Funds are drawn down from the investors and then expended on costs associated with the project. As at 30th March 2019 the balance was £250,904.07
- iii. These funds are held to cover costs associated with the project.

SHP Comments on the Applicant's Response

- i. The relationship between the Applicant and Freudmann Tipple Ltd is highly unusual, with Mr Freudmann required to operate the bank account of a different company at the direction of the Applicant and grant a power of attorney in favour of the Applicant. Under clause 4.1.1 of the agreement attached as Appendix F.2.8 to the Applicant's submission, it states that the arrangement shall continue until the Applicant or RiverOak Operations Limited sets up a bank account in its own name. It is noted that Freudmann Tipple Ltd is not a party to the agreement, raising questions as to whether it has consented to this arrangement as would be required.

It is recognised that the requirements for opening UK bank accounts are much more onerous than in the past as a result of the requirements for banks to undertake detailed identity checks on directors, shareholders and any beneficial owners holding more than 25% of the equity interest in a Company. Checks are also required to be undertaken as to the likely source and uses of such funds to ensure that the bank is in compliance with 'know your customer' and money laundering regulations.

Having taken advice from a major UK Bank, SHP have been advised that the Freudmann Tipple International arrangement is highly unusual. Whilst the Bank would not completely rule out such an arrangement, the Bank advised that the proposal would be marked as high risk and the Bank's checks would be more extensive than those required to actually open an account in the name of the Applicant or its subsidiary. The Bank would also need to satisfy itself with the terms of the Trust Deed.

In view of the efforts required to have Freudmann Tipple International's bankers consented to this arrangement, it is not clear why the Applicant did just not open its own bank account. It adds yet another layer of complexity to an already opaque structure.

Written Question F.2.13

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

"The shareholders of MIO Investments are the project's investors"

Information in the public domain at <http://rsp.co.uk/news/the-formation-and-funding-of-riveroak-strategic-partners/> states that:

"We have provided all required details of our company ownership structure to Companies House"

i. Provide a copy of the documentation provided to Companies House.

ii. Provide a link to the Companies House website showing where details of MIO Investments are to be found.

The Applicant's Response

i. MIO's interest has now been transferred to RiverOak Investments (UK) Limited a newly incorporated company registered in the UK. The company's structure is shown on the organogram at Appendix F.2.4 in TR020002/D6/SWQ/Appendices. The directors of RiverOak Investments (UK) Limited are Nick Rothwell, Rico Seitz, Gerhard Huesler and HLX Nominees Limited (the same directors as MIO Investments).

ii. MIO is registered outside the UK and is not registered at Companies House.

SHP Comments on the Applicant's Response

i. SHP would note that MIO Investments remains the sole investor in the Applicant's project. There is no evidence before the examination that any other party, including the shareholders of the Applicant, has invested, or committed, any funding to the project.

Written Question F.2.14

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

"The shareholders of MIO Investments are the project's investors"

In the Applicant's Response for DL1: Enclosure 1 to Main Letter re. s51 Advice on Funding you state that:

"The Applicant has recognised that the lack of transparency in relation to the Belize entity in particular has given rise to a number of questions."

Information in the public domain at <http://rsp.co.uk/news/the-formationand-funding-of-riveroak-strategic-partners/> states that:

“MIO Investments Limited is a company registered in the Commonwealth territory of Belize.”

- i. Show how the continuing use of MIO Investments as the project’s investors serves to address the lack of transparency in relation to the Belize entity.
- ii. Provide details of, or a link to, company details for MIO Investments.

The Applicant’s Response

- i. MIO’s ownership in the Applicant has now been transferred to RiverOak Investments (UK) Limited, as UK registered entity as explained above.
- ii. MIO is a Belize registered company and its company number as shown on the organogram provided Appendix F.2.4 in TR020002/D6/SWQ/Appendices is 162208. Its certificate of incorporation, register of directors and memorandum and articles of association are provided at Appendix F.2.14.

SHP Comments on the Applicant’s Response

- i. The Applicant has not addressed the question asked by the ExA, which was focussed on MIO Investments. There is no information before the examination to suggest that RiverOak Investments (UK) Ltd is anything other than the holder of 90% of the shares in the Applicant (which has a total nominal value of 90p). SHP would note that MIO remains the sole investor in the Applicant’s project. There is no evidence before the examination that any other party including the shareholders of the Applicant has invested, or committed, any funding to the project.
- ii. The Applicant has provided no information / evidence of the shareholders, investors or funders of MIO Investments. It has not provided the financial statements of MIO Investments. Under the Belize regulations, none of this information is required to be made publically available.

Written Question F.2.15

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

“The shareholders of MIO Investments are the project’s investors ... their loans to MIO Investments had been subject to due diligence and approval by HMRC under the Business Investment Relief scheme and declared in their tax returns.”

You have provided redacted copies of three letters, each dated 1 December 2016, from Business Investment Relief, HMRC (reference numbers 0498, 0499 and 0500).

Each of these letters refers to *“the proposed investment in RiverOak Strategic Partners Ltd”* not, as you state, to MIO Investments.

The letters from HMRC state that:

“If any of the circumstances or the nature of the investment differ from those described by you, or other facts come to light which have an impact on whether the investment is a qualifying investment, HMRC will not be bound by this opinion.”

Would the opinion of the HMRC remain valid if the nature of the loan has changed?

The Applicant’s Response

See Appendix F.2.15 of the Applicant’s Response

SHP Comments on the Applicant’s Response

SHP would note that the financial statements of the Applicant for the years ending 31 July 2017 and 31 July 2018, show nil investment in the form of new share capital or loans. The Applicant is a dormant company with £1 of share capital (unpaid).

On the basis MIO Investments or any other party has not invested equity funding in or provided loans to the Applicant, it is not clear from the Applicant’s answer that the correct set of facts have been disclosed to HMRC.

Written Question F.2.16

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

“The shareholders of MIO Investments are the project’s investors ... their loans to MIO Investments had been subject to due diligence and approval by HMRC under the Business Investment Relief scheme and declared in their tax returns.”

You have provided redacted copies of three letters, each dated 1 December 2016, from Business Investment Relief, HMRC (reference numbers 0498, 0499 and 0500). Each of these letters states that:

“I remind you that: As the person claiming relief, you are wholly responsible for the accuracy of the information supplied to HMRC. This opinion is based solely on the information you provided and will not apply in any circumstances beyond those described by you.”

Given these two statements, justify your statement that “the loans to MIO Investments had been subject to due diligence... by HMRC”.

The Applicant's Response

See Appendix F.2.16 of the Applicant's Response

SHP Comments on the Applicant's Response

As noted in SHP's comments on CA.2.15 above, no funding in way of equity or loans has been made into the Applicant based on the financial statements lodged at Companies House. It is therefore not clear that the information provided to HMRC was accurate.

Written Question F.2.17

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.3 that:

"The shareholders of MIO Investments are the project's investors ... their loans to MIO Investments had been subject to due diligence and approval by HMRC under the Business Investment Relief scheme and declared in their tax returns."

You have provided redacted copies of three letters, each dated 1 December 2016, from Business Investment Relief, HMRC (reference numbers 0498, 0499 and 0500). Each of these letters states that:

"Although we have provided this assurance please be aware that we do have reservations about the above company's likely trading position. As such we expect you and your agent to keep the position under review and to expect that HMRC will do likewise. With that in mind it would be helpful if, for the two years after the claim is made, a "white notes" entry is made on your tax return to summarise the position as this may help avoid us having to open formal enquiries."

- i. Comment, in respect of each of the three investors, on the statement by HMRC that, it does "have reservations about the ... company's likely trading position".
- ii. Has the claim been made?
- iii. Have "white notes" entries been made on the tax returns for the three investors?
- iv. Has HMRC opened formal enquiries into any of the three investors?

The Applicant's Response

See Appendix F.2.17 of the Applicant's Response

SHP Comments on the Applicant's Response

The Foot Anstey note states that *"there are a number of eligible trading companies into which RSP has made investments."* However, based on the published financial statements and other submissions, RSP does not appear to have made any investments into the various subsidiary companies. Indeed RSP only has called up share capital of £1 (which is unpaid).

Written Question F.2.18

The Applicant's Written Summary of Case put Orally - Compulsory Acquisition Hearing and associated appendices [REP5-number to be allocated] states at paragraph 3.1 that:

"the restructuring [is] taking longer than expected in part due to the ongoing discussions with Stone Hill Park (SHP) regarding the acquisition of the site."

Explain how the ongoing discussions with Stone Hill Park regarding the acquisition of the site have delayed the restructuring.

The Applicant's Response

The discussions with Stone Hill Park themselves took longer than expected because the Department for Transport changed the terms of the deemed planning permission in January 2019 from that contained in the Town and Country Planning (Operation Stack) Special Development Order 2015 (as amended by the 2017 Order) to that contained in the Town and Country Planning (Manston Airport) Special Development Order 2019, which made extensive changes to the extent and scope of the permission with consequent effects on the acquisition. The coming into force of the 2019 Order was then accompanied by extensive works at the site by the DfT, as the ExA will have seen on the accompanied site inspection, further complicating the terms of the acquisition.

The progress of discussions with Stone Hill Park indicated that a voluntary disposal was likely. The Applicant has always been committed to acquiring the site by agreement if possible. To that end it has continued to engage with Stone Hill Park during the DCO examination and reached a point at which acquisition by agreement appeared likely. During the course of these discussions a new agreement was reached between Stone Hill Park and the DfT, the implications of which were not immediately transparent to other parties considering investment in the project. They required much more time to consider those implications than was available in the context of the DCO process. Given the urgency of providing the ExA with further information as to the restructure and of bringing ownership of the Applicant onshore an alternative restructure was put in place, Under this restructure, funds continue to be available to complete a negotiated acquisition.

SHP Comments on the Applicant's Response

As noted in SHP's response to this question and SHP's response to the written question CA.2.17 submitted as part of SHP's DL6 submissions [REP6-053], it is SHP's firmly held view, supported by the evidence, that the Applicant's engagement and correspondence with SHP has been purely tactical, and aimed at allowing the Applicant to maintain a pretence to the ExA that discussions are ongoing.

Whilst the Applicant refers to a new agreement with the DfT, the Applicant has misrepresented the position.

Written Question F.2.19

Resource Implications – Implementation of the Project

The Applicant is reminded that that DCLG Guidance related to procedures for the compulsory acquisition of land (DCLG (2013) Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, April) states that:

“Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of ... implementing the project for which the land is required.”

The Planning Inspectorate’s advice to the Applicant under s.51 of PA2018, in a letter dated 14th August 2018 states that:

“...the Inspectorate considers that the Funding Statement poses substantial risk to the examination of the application.”

Show what steps you have taken thus far to minimise that risk.

The Applicant’s Response

The Applicant has made significant efforts to minimise the risk identified by the ExA in its section 51 advice. It has carried out a restructuring to replace the Belize registered company with a company registered in the UK. It has amended the joint venture agreement which now applies as between RiverOak Manston Limited and RiverOak Investments (UK) Limited to ensure that these companies are responsible for meeting the costs of compulsory acquisition and costs associated with the noise mitigation plan. The letter from PwC submitted with the application shows that the directors of RiverOak Investments (UK) Limited hold substantial funds to meet those costs, and the JVA commits them to using those funds to meet the costs associated with compulsory acquisition, and costs associated with the noise mitigation plan.

In addition the Applicant has provided further information as to the group structure including a letter from the accountants Calder and Co (at Appendix F.2.4 in TR020002/D6/SWQ/Appendices) and an updated Funding Statement at DL6 (document reference TR020002/D6/3.2).

SHP Comments on the Applicant’s Response

The Applicant’s answer is not credible. It is riddled with inconsistencies, misleading statements and errors that only serve to confuse the reader, as noted below.

Firstly, the restructuring is nothing more than window dressing as explained in more detail in our comments on question F.2.1. The Belize entity is still providing all the funding. It may have been replaced as 90% shareholder of the Applicant (i.e. 90p nominal value of shares) by a new SPV that is majority owned by a BVI company, but it is a fact that the shareholders of the Applicant have invested no equity (the share capital of £1 is unpaid) or provided any funding, whatsoever. The Belize entity, M.I.O. Investments Ltd remains the sole funder and has significant control through the JV Agreement submitted at DL5 as explained in section 2.10 of SHP's comments on the Applicant's written summary of oral submissions put at the CA hearing [REP6-052].

Secondly, the claim that the joint venture agreement has been amended to apply to *"RiverOak Manston Limited and RiverOak Investments (UK) Ltd to ensure that these companies are responsible for meeting the costs of compulsory acquisition and costs associated with the noise mitigation plan"* is bizarre.

This is directly contradicted by paragraph 12 of the Revised Funding Statement submitted at DL6, which refers to the JV Agreement submitted as appendix to [REP5-011] and M.I.O. Investments providing said commitment as funders of the project. These significant inconsistencies between the Applicant's submissions make it even harder to discern what the evidence is supposed to tell the reader.

If in fact the JV Agreement has been amended, why was the amendment or variation deed not submitted to the examination at DL6? It is particularly relevant, as, based on the documentation currently before the examination, the JV Agreement will have terminated as soon as MIO Investments Ltd transferred its shareholding in the Applicant under clause 16.1.1 of the JV Agreement (Appendix 4 of the Applicant's Written Summary of Oral Submissions put at the CA Hearing [REP5-011]).

Thirdly, the Applicant continues to misrepresent what the PWC letter actually says. As we have stated previously and made clear at the CA hearing, the PWC letter simply confirms that certain levels of funds were held in a bank accounts on certain dates that Helix operate on behalf of certain clients. It does nothing more and provides no link to M.I.O. Investments or the Applicant's project.

The letter most certainly does not show, as the Applicant incorrectly claims, *"that the directors of RiverOak Investments (UK) Ltd hold substantial funds to meet those [compulsory acquisition / noise mitigation] costs"*. Furthermore the Joint Venture Agreement does not commit them to us "those" funds to meet the compulsory acquisition and noise mitigation costs.

The degree which the PWC letter has been misrepresented and exaggerated by the Applicant is inexplicable. It brings a recent "Facts First" advert that ran on CNN to mind. The advert starts with a picture of an apple and the voiceover states;

"This is an apple. Some people might try and tell you that it's a banana. They might scream banana, banana, banana over and over and over again. They might put BANANA in all caps. You might even start to believe that this is a banana. But it's not. This is an apple."

The point we are trying to highlight is that Applicant continually repeats falsehoods about the significance of the PWC letter in the hope that they will eventually be believed. We would strongly request that the ExA seeks advice from the DfT or other Government department on whether the Government would ever place any reliance whatsoever on the letter of the sort included in the Applicant's application.

Fourthly, the additional information provided in the Applicant's answer to F.2.6 provides nothing of any relevance to the question posed by the ExA.

Written Question F.2.20

The Applicant is reminded that the DCLG Guidance related to procedures for the compulsory acquisition of land (DCLG (2013) Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, April) states that:

"Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of ... implementing the project for which the land is required."

You stated in F.1.11 that:

"The Applicant will submit an updated funding statement as soon as the restructuring mentioned in the DL1 cover letter (REP1-001) is complete."

The ExA notes that an updated Funding Statement has not been provided at DL5 despite the Applicant's statement in its Response for DL1: Enclosure 1 to Main Letter re s51 Advice on Funding that:

"...it is anticipated that [the restructuring] will be complete and that further details can be put into the public domain by DL3 (8 February)."

Explain why you have failed to meet your anticipated deadline of 8 February, and subsequent Deadlines 4 (8 March) and 5 (29 March).

The Applicant's Response

The delay in the submission of a revised Funding Statement is a result of the delay in concluding the restructuring of the company. There are two reasons for the delay to the restructuring. The first being that external parties originally intended to participate in the restructuring were unable to meet the timescales inherent in the DCO examination process. Consequently a modified restricting has taken place which has brought the original MIO ownership onshore as anticipated at the compulsory acquisition hearing in March. That restructure was completed at the end of April. The second related reason concerns the complications surrounding the potential acquisition of the site as set out in response to question F.2.18 above.

SHP Comments on the Applicant's Response

The Applicant's admission that it has not been able to bring on board new investors during the examination process is revealing. However, it is wholly unsurprising given the lack of credibility attaching to the Applicant's proposals that would have been apparent to any credible potential investor that was following the examination closely. It is clear that the Applicant is unable to raise new funding from 3rd parties.

Written Question F.2.21

The Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated] states at paragraph 3.15 that:

"The Applicant has now spent £14.5m on the project ..."

Provide proof of this statement.

The Applicant's Response

The Applicant has spent £12.8 million on the process to date as certified by its accountants (at Appendix F.2.21 part B in TR020002/D6/SWQ/Appendices). In addition £2.418 million on the acquisition of the Jentex site as shown in the completion statement (at Appendix F.2.7 part B in R020002/D6/SWQ/Appendices), giving rise to a total of £15.2 million spent on the project to date.

SHP Comments on the Applicant's Response

SHP would note the Applicant has provided no evidence on which any reliance can be placed that £12.8m of costs have been expended on the DCO process to date.

Again, the Applicant refuses to provide real evidence or detail, and has supplied a high level LIMITED ASSURANCE note from Calder & Co, that effectively confirms amounts received and spent. It is clear that Calder and Co has not undertaken a detailed review to audit actual expenditure to ensure that it does in fact apply to the project.

SHP cannot understand the Applicant's reluctance to provide any transparency. If all the costs have been appropriately incurred for the purposes of this project, then it could quite easily have provided a schedule that set out the main costs incurred.

For a DCO process, it would be expected that the fees of BDB Pitmans, Wood and RPS would comprise the vast majority of the Applicant's expenditure on legal and professional fees, and indeed its overall expenditure. Even if the Applicant was only to list out the fees (net of VAT) for each of these 3 firms, and have each provide a confirmatory note, which would provide some form of transparency that is sorely lacking.

Under the terms of the Business Investment Relief ("BIR") scheme that is being used by the Applicant's funders, clawback of the relief can be triggered where certain any potentially chargeable events occur.

In certain circumstances the entire amount of BIR can be clawed back even where breaches are minimal, therefore it is important that the ExA has sufficient transparency over the nature of the Applicant's costs to ensure that clawbacks would not be triggered. Clawbacks could have a material impact on the tax position of investors/funders and their ability to provide further funding (for which there is currently no evidence before the examination).

Written Question F.2.22

The Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated] states at paragraph 3.15 that:

"...[the] funders continue to have a further £30m set aside to include its costs until the grant of the DCO and to pay for land acquisition and noise mitigation costs."

You have provided a redacted copy of the joint Venture Agreement at Appendix 4 to Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated]. This Agreement is characterised as being a Loan Note Instrument constituting up to £15,000,000 interest-free non-convertible loan stock 2025.

Show where the remaining £15,000,000 is set aside.

The Applicant's Response

The PwC letter submitted with the application (Appendix 3 of APP-103) confirms the existence of two separate bank accounts, each with in excess of £15 million in unencumbered funds. Those bank accounts are held by investors in MIO Investments and now in RiverOak Investments (UK) Limited. The Joint Venture Agreement commits £15 million to funding the project that being the combined cost of compulsory acquisition and costs associated with the noise mitigation plan. There are further funds available when required albeit not specifically committed to the project. It is highly unlikely that RSP and its capital partners would walk away from the very significant financial and time commitment they have invested in this project to date.

SHP Comments on the Applicant's Response

Again, the Applicant has avoided the question posed by the ExA.

The Applicant refers to the PWC letter which confirmed the existence of two bank accounts with unencumbered funds. There is no evidence before the examination that substantiates that these bank accounts are held by investors in MIO Investments Ltd and RiverOak Investments (UK) Ltd, whoever they may be. There is also no evidence that these funds are still available or will continue to be available.

Written Question F.2.25

You have provided a redacted copy of the joint Venture Agreement at Appendix 4 to Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated].

This includes references to RiverOak Investment Corp. described as a Delaware limited liability corporation.

- i. Provide the UK Company Registration number for RiverOak Investment Corp.
- ii. Explain the role of RiverOak Investment Corp in the proposed project.

The Applicant's Response

- i. RiverOak Investment Corp. is not registered in the UK so has no UK company registration. Its Delaware registration number is 3028870 see Appendix F.2.25 part A (in TR020002/D6/SWQ/Appendices).
- ii. RiverOak Investment Corp (RIC) has no involvement in the proposed project. RIC was the original promoter of the project, but the Applicant bought all the rights in and obligations of the project from RIC in mid-December of 2016, at the same time that the Joint Venture (RSP) was formed. RIC has not had any involvement since it sold its interest in 2016. Prior to December 2016, George Yerrall and Niall Lawlor were partners of RIC and Tony Freudmann was acting as a consultant to RIC. On advice, RSP, a UK registered company was created to promote the DCO application. A letter to the then leader of Thanet District Council explaining RIC's role at the time is attached at Appendix F.2.25 part B in TR020002/D6/SWQ/Appendices.

SHP Comments on the Applicant's Response

- ii. The Applicant's answer is contradictory. The Applicant attempts to explain that RSP was created to promote the DCO on advice, but also confirms that RIC decided to sell its interest and have no further involvement after the disposal in mid-December 2016. The creation of RSP, was wholly independent of RIC, being set up by Mr Freudmann in July 2016 with himself as the sole shareholder. RIC was not involved, therefore it is unclear how this relates to the RIC letter that was appended to the Applicant's answer. Again the answer given is imprecise.

Written Question F.2.26

You have provided a redacted copy of the joint Venture Agreement at Appendix 4 to Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated].

This states at paragraph 9.2 that:

“The first Business Plan shall be prepared by the Board as soon as reasonably practicable following the occurrence of the Project Success Event”

- i. Explain the status of the business model provided at Appendix F.1.5 of Appendices to Answers to First Written Questions [REP3-187].
- ii. Define ‘Project Success Event’.

The Applicant’s Response

- i. The first Business Plan referred to in paragraph 9.2 is a commercially sensitive internal document which informed the investors’ decision to fund the DCO process. The business model provided to the ExA is derived from the Business Plan but is an edited version of that document for reasons of commercial confidentiality.
- ii. “Project Success Event” is defined in the Joint Venture Agreement (Appendix 4 to REP5-011) as:

the later of the following events:

- *the Secretary of State for Transport (or such other relevant government officer) having granted a Development Consent Order pursuant to sections 104 or 105 of the Planning Act 2008 (including powers, rights and authorisations needed to acquire the and registered at the Land Registry with title number K803975) provided that no application for permission to bring judicial review proceedings has been made within the requisite time period for bringing such application (being, as at the date of this agreement, six weeks from the date of the Secretary of State’s decision to grant the Development Consent Order); and*
- *a final judgment from a court of competent jurisdiction dismissing any judicial review proceedings in respect of the Development Consent Order.*

SHP Comments on the Applicant’s Response

- i. The Applicant appears not to understand its own JV Agreement and the definitions therein. Paragraph 9.2 of the JV Agreement refers to the first Business Plan that is prepared after a Project Success Event. As inferred in the Applicant’s answer to F.2.26(ii), there has not been any Project Success event yet and therefore the Business Plan referred to in paragraph 9.2 could not have been prepared. The Applicant must be referring to

a different Business Plan. Whilst this may appear to be relatively minor observation, it is another example of the Applicant not knowing what its own application and documents say.

It now appears that the Applicant is unwilling to provide any further evidence to the examination on its business plan. SHP has set out in its previous submissions there is a material lack of information and evidence before the examination that would allow for an adequate testing of the evidence and a fair chance for SHP to present its case.

Written Question ND.2.1

Forecasts

While accepting that there may be no standard methodology for forecasting air freight, in the Need and Operations Hearing (21/03/19) it was accepted that the Azimuth report [APP-085] did not account for viability and that the forecasts contained within the ES were indicative.

Given the above, are the Azimuth forecasts effectively therefore an assessment of potential, or a wish list?

The Applicant's Response

The Azimuth Report doc ref] provides an assessment of potential demand in the South East of England, which is known to experience significant capacity constraints. Volume II of the report provides a qualitative study of potential demand for Manston airport, informed by the assessment of overall demand in the South East in Volume I The forecast contained in Volume III in turn draws on the qualitative study of potential demand. The forecast is more than a wish list or assessment of potential. Rather, it is an evidence based assessment of likely levels of cargo and passenger traffic at Manston.

The viability assessment is a separate consideration. It is informed by the forecast demand for Manston airport and considers whether the infrastructure required to meet that demand can viably be delivered. The fact that the forecast is separate from the viability assessment reinforces the independence of the forecast. It was not prepared to produce any specific number of ATMs to show that the project would be viable. It was for the Applicant to consider whether the project was commercially viable. This was not part of the Azimuth Report.

This would be the case in any sector. For example, the forecast for the need for a particular pharmaceutical product would show the number of people likely to be affected by a particular condition over a period of years. A viability study would show whether the size of the potential market would warrant the investment in research and development of a product to target the condition.

As with the air transport forecast for Manston Airport, the need is clearly demonstrated through the need case and the forecast, with viability considered separately.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The Applicant continues to claim that Vol II of the Azimuth Reports "is an evidence based assessment of likely levels of cargo and passenger traffic at Manston". This is patently nonsense as was made clear at the Oral Hearing on Need and Operations, where Dr Dixon conceded that she had provided a general assessment of the scale of the market that Manston might attract rather than a specific forecast of what it would attract when specific considerations of cost and viability are properly taken into account. In this answer, the Applicant seeks to construe that commercial viability is considered independently of Azimuth forecast, which may be true in relation to the viability to the Applicant in its own business model (albeit this is not what is stated in the Application Documents – see York Aviation Report February 2019, para. 7.3). However, a forecast of the use of an airport cannot be made without giving consideration to the relative price to users. Usage is not independent of cost, as indeed Northpoint acknowledge in their report submitted at Deadline 4 at para. 67. Price is vital to understanding the extent to which any capacity provided might actually be used in practice. Given the Applicant's stated intention to be a 'price setter' and the high level of charge per movement or per tonne indicated in the 'business model' spreadsheet submitted, applying these to the likelihood of the capacity being taken up or, in other words, the forecasts being realised is essential."

Written Question ND.2.2

Forecasts

The forecasts in the Azimuth report [APP-085] result partly from discussions with industry figures. Of these 24 interviewees seven could be described as local businesses, with a further two as Kent promotional bodies.

At the Need and Operations Hearing (21/03/19) you stated that these were supplemented with interviews and conversations with other experts and industry figures.

Provide further evidence over such conversations and discussions, including a list of those interviewed and their conclusions relating to the proposed scheme.

The Applicant's Response

Numerous conversations and discussions took place with industry members which informed the figures in the Azimuth Report. These include representatives from key UK airports and from a range of airlines. These discussions are commercially sensitive and necessarily confidential, both in the detail of the conversation and in the identity of the airport/airline.

The Applicant has also been in contact with industry bodies including attending the London Infrastructure Summit at the invitation of London First, is in regular contact with international aviation organisations such as Bas International, worldwide aircraft charter experts, and potential users of Manston Airport such as Sound Moves.

Interviewees were not invited to express conclusions on the proposed scheme. Rather, they were asked to provide insight on current limitations and opportunities in the sector. A key issue raised in those discussions was the capacity constraints in the UK's airport infrastructure in the South East. Constrained airports generally tend to favour the passenger market with the result that dedicated freighters can experience difficulties getting landing/take-off slots, rapid handling and sufficient and suitable warehousing.

SHP Comments on the Applicant's Response

SHP considers it astonishing that the Applicant can think it reasonable to respond in the manner it has to direct, clear requests for information from the ExA.

With regard to the answer provided we would refer the ExA to the following comments extracted from York Aviation's note (see Appendix 1):

"We note that the ExA asked for evidence on "interviews and conversations with other experts and industry figures" carried out by the Applicant and their "conclusions relating to the proposed scheme". It is extraordinary that there are only 3 examples cited in response, none of which are leading cargo industry experts.

First of all, an invitation to attend the London Infrastructure Summit is nothing more than an invitation to send a delegate to a conference. There is no evidence that RSP has been invited to speak at the summit, nor the extent to which the proposed development at Manston is supported by London First or other sponsors of the Summit.

The second company/organisation cited, BAS international, are a broker leasing aircraft for business aviation use. They are not a player, major or otherwise, in the international airfreight sector. Any comments made by them will relate solely to slot constraints for business aviation activities at the main London airports and are not relevant to the position for freighters.

The third company, Sound Moves, operate a niche business for moving music equipment and staging. At best, this would be a limited operation with a handful of flights a year. By way of example, they are stated as currently using Doncaster Sheffield Airport for their operations (Answer ND.2.5). Total cargo ATMs at Doncaster in 2018 were less than 150 according to CAA Airport Statistics, of which Sound Moves will not account for all of the movements. This would represent a very small niche operation.

In total, this response provides no evidence of an ongoing dialogue with any of the users which it is claimed by the Applicant might use Manston for cargo operations. In order for the Applicant's forecasts to be realised, it would be necessary for an operator of dedicated cargo flights on a substantial scale to be attracted. There is absolutely no evidence that the Applicant is actually engaged in any sort of dialogue with such operators."

Written Question ND.2.3

Forecasts - Exports At the Need and Operations Hearing (21/03/19) it was stated that of the proposed perishable goods, there was a clear demand for importing such goods and also for exporting fish and shellfish. Markets also being targeted include F1 cars and racehorses.

- i. Confirm the expected business generated from such exports (in terms of tonnages and ATMs).
- ii. Confirm (or otherwise) that there would be little market for exporting other perishable goods.
- iii. Which airport(s) do fish and shellfish currently export from?
- iv. iv. Which airport(s) do a) race horses, b) F1 cars, and c) luxury cars currently import and export from? v. Would the export of such goods from Manston have displacement effects in socio-economic terms?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response by the Applicant ignores nature of fish and shellfish trade. Somewhat misleadingly, the Applicant cites figures for total export volumes related to seafood. This includes exports in refrigerated ships to countries such as Ireland, France and Spain which are 3 of the 4 top markets and, self evidently, most likely to be served by refrigerated ships or trucks. As is made clear in the Steer Report for Airlines UK (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, para. 20) [REP5-031], export of salmon products makes up a substantial portion of the trade and this is distributed globally using bellyhold capacity available from Heathrow, with the US being a large market related to its place in the top 4 export markets for fish from the UK.

In any event, it is far from clear how 1 flight a week (for 26 weeks of the year) would meet the requirements of this trade and would offer any practical time advantage such as to justify the use of air freight rather than sea or truck.

Other niche markets related to race horses, F1 and rock bands are cited as potential for Manston. However, it is far from clear how the suggestion of 2 based aircraft operating 4 flights a week would be viable for an airline. Furthermore, there is no evidence of this scale of demand for such niche markets. The comment made that Manston may only receive part loads on such aircraft strongly suggests, in any event, that any such operations would not be aircraft based at Manston. Furthermore, as has previously been pointed out at the Hearings, other airports such as Stansted and Doncaster are better located in relation to much of the horse racing trade and East Midlands would be the best located airport for F1 operations which are to a large extent centred in the East Midlands Region in the vicinity of Silverstone.

The claim that such services might use Manston relies, once again, on the unsubstantiated assertion that MAG will seek to displace such freighter activity from Stansted. Even if that was the case, which we do not believe, for such niche air cargo operations, it is hard to see how 1 or 2 flights a week by such activity would justify the investment of £186 million necessary to reopen Manston as a cargo airport in the first instance.”

Written Question ND.2.4

Forecasts - Exports

Paragraph 3.2 of Volume 3 of the Azimuth Report [APP-085] states that export would be to countries including global for parcels and packages, China for the export of luxury items, the Middle East for export of fish and shellfish, Pakistan for the export of consumer goods, Russia for the export of luxury items and the US for a range of exports.

Provide further information on the precise nature of such exports and likely market size, aside from those dealt with under ND. 2.3.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

“The Applicant again provides secondary data about export and import markets. This response is not supported by any analysis of what commodities would use Manston or why. On what basis is it considered realistic that Manston would obtain a 6% share of import tonnage and 14% share of export tonnage to/from the UK’s top 15 Non-EU trading partners. No explanation is provided as to what would drive a preference by exporters to use Manston? All the response does is to take the Azimuth forecast as a given and then describe the consequences. This provides no evidence as to the likelihood of it being achievable.”

It is also worth placing the Applicant’s claims that, if all tonnages are used, the forecast assumes Manston secures 6% of non-EU imports and 14% of non-EU exports, in context.

Firstly, Table 14 of the CAA statistics for 2018 show there was a total of 2.067 million tonnes of air freight to/from non-EU International trading partners. Of this, Table 14 shows 87% was carried in bellyhold and only 13% (279k tonnes) in dedicated freighters. Therefore, applying an appropriate split between imports and exports, the Applicant appears to be claiming it will capture 60%-70% of the entire market for non-EU air freight carried in dedicated freighters. This is simply not credible.

Secondly, the Applicant’s answer again highlights the fundamental contradictions between the forecast freight flows and the assertions made regarding the e-commerce integrator model. This contradiction has been explained in previous submissions, and it is noted that it is the subject of a further question from the ExA.

Written Question ND.2.5

Forecasts

It is stated in the Applicant’s Written Summary of Case put Orally – Need and Operation Hearing [Submitted at DL5, Ref not yet assigned] that Manston would offer *“unconstrained, state of the art freight, digitalised freight handling facilities - speciality handling (for race horses); refrigerated storage facilities; flexible warehousing (eg to accommodate*

outsized freight) and security clearance” and that this would be an offer will provide “something that has not been done in this country before”

i. How would such an offer differ from those already available at existing UK airports?

ii. Do other UK airports offer speciality handling for race horses?

iii. Do other UK airports offer refrigerated storage facilities and accommodation for outsized freight?

iv. “State of the art freight, digitalised freight handling facilities” implies a high level of automation and efficiency. Has the provision of such facilities been taken into account in the socio-economic forecasts?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response simply repeats thesis of congestion at other airports, which we dispute (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 – ND.1.13, ND.1.15, ND.1.16, ND.1.18) and that Manston will be state of the art meaning that it will attract operators away from these other airports (i.e. displacement of activity). This appears to ignore investment in new state of the art cargo handling facilities at East Midlands and Heathrow, in particular the developments underway at both locations by SEGRO.

This response also contains the extraordinary claim that Manston would offer a "value for money proposition", despite the fact that the business model shows the costs of using the facility to be between 3 and 6 times the charges levied at other airports (see York Aviation Report February 2019, para. 7.36). There is no evidence that other airports would not provide facilities for "refrigerated storage and outsized freight" if there was a business case for doing so.

The response goes onto say that automation would have no effect on predicted job numbers. However, on the one hand the Applicant claims airports like East Midlands are not operating state of the art facilities employing the latest technology, on the other hand it persists in wrongly applying the overall employment density (jobs per workload unit including non-aviation jobs) for East Midlands as the basis for its employment projections (see further comments on answers to SE.2.2 and SE.2.4 below). This is contradictory and inconsistent."

Written Question ND.2.6

Forecasts A question was put at the Need and Operations Hearing (21/03/19) concerning proposed freight tonnages per movement contained within the forecasts, which appear to be lower than was historically the case. Section 8.7 of the Altitude Aviation January 2018 report (included with Appendix 5 of SHP's Written Representations [REP3-025]) refers, and notes that East Midlands is the only airport in the EU top 20 (by tonnage) with a lower ratio of freight tonnes per freighter flight than the average projections for Manston, which is explained in Altitude Aviation's view by the extensive integrator operations at East Midlands Airport and that airports without integrator operations (or with a mix) tend to achieve significantly higher freight tonnes per freighter flight.

Provide further justification for your ratio of freight tonnes per freighter flight.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The tonnage per movement set out in the Azimuth report is reflective of the erroneous fleet mix, including a substantial number of ATR72 turboprop aircraft necessarily carrying a limited load. The explanation provided by the Applicant in this response is simply illogical. If the intention is for the e-commerce integrator to be supplying product to fulfilment centres in the UK, why would outbound flights by larger aircraft carry 100% load and inbound flights 20%. Nor does it make sense for the small feeder flights to carry 100% inbound as this would imply that Manston would be functioning as a hub operation with product shipped in on small aircraft to be shipped out again on larger aircraft. This does not fit with the business model otherwise described by the Applicant or its attempt at a justification as to why such an e-commerce integrator would locate at Manston. The whole story of the role of e-commerce is illogical. To the extent that there is a market for this type of activity, it is to bring product to the UK for UK-wide distribution. Any hub would logically be located near the centre for production of the goods within the UK, to the extent to which there are UK goods for export, and be far more likely to be in the Midlands for the distribution of inbound goods and not at Manston."

Written Question ND.2.7

Forecasts – Bellyhold and Pure Freight

It is stated in the Applicant's "Written Summary of Case put Orally – Need and Operation Hearing" [submitted at DL5, Ref not yet assigned] document that the applicant believes that the cost difference between flying cargo on freighters as compared to bellyhold transit are not as substantial as stated by other parties. The ExA notes a commitment to undertake further research into this area.

i. When will the results of such research be available?

ii. Should such research not have been completed earlier to help inform the business case?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

- i. The Applicant has been unable to provide any evidence to substantiate its assertions, or dispute the evidence from York Aviation.
- ii. The assertion “[T]his information was not required as part of the business case” and the rationale given is truly astonishing.

The Applicant has now admitted that neither (i) the forecasts prepared by Azimuth Associates nor (ii) the so-called “business plan” gave any consideration to the relative costs of transferring air freight. This is simply not credible, given the importance of costs to stakeholders.

As highlighted in Appendix 2.1 to SHP's Written Summary of Oral Submissions put at the Need and Operation Hearing [Rep5-029], paragraph 4.1.9 of Volume II of the Azimuth Report [APP-044] states that one of the interviewees, when asked to rank issues that are important to its business, responded, “Cost is always the most important”.

In order to properly inform discussion, not only does the ExA need to know what the costs are, it needs to see a fully transparent business case justifying those costs (as well as the revenues) and explaining how they are consistent with a deliverable development.

We also note below additional commentary from the York Aviation note (see Appendix 1):

“It is notable that the Applicant is unable to identify any research or data which disputes our analysis of the order of cost difference between dedicated freighter operations and bellyhold freight (York Aviation Report February 2019, para. 4.7) [REP3-025], but, nonetheless says it continues to dispute the estimated order of magnitude of the cost difference. It is simply not credible for the Applicant to say that the cost difference is not relevant to RSP's business model as there will be other reasons why dedicated freighter aircraft will be used. This may be true for niche specialist cargos but does not apply to the bulk of general cargo. It is this latter cargo which makes up most of the trucking operations, the interception of which Northpoint rely on to justify its version of the tonnage forecasts for Manston (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 37 and 38) [REP5-031]. All the evidence points to cost efficiency being a significant factor in the decision as to how cargo is moved, particularly for trucked freight upon which the Applicant continues to rely in this response.

In the light of the business model information provided by the Applicant, it is not credible to claim that Manston would offer “a strong value for money proposition”. To the extent that asserted time savings are a factor due to lack of congestion, the Applicant offers no quantification of the value of these time savings to cargo shippers, taking into account access times from the origin/destination of the goods, which could be offset against the higher charges it proposes to levy. “

Written Question ND.2.8

Forecasts

The Northpoint report [REP4-031] contains statistics concerning air cargo trends in the UK and major EU cities, considering that a change in air freight tonnage since 2000 can be explained as being relatively recent in nature and local to London and the South East, and that this is as a result of capacity constraints.

A further interpretation could be that the rest of the UK outperformed London and the South East, due to availability and the location of East Midlands, in the centre of the country with the South East, Midlands and northern cities within reach.

What is your view on this interpretation?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"Whilst faster growth of freight activity at East Midlands Airport may not be reflective of a stronger regional economic performance, it is reflective of the emergence of a 'golden triangle' for UK Logistics operations in the Midlands, which is able to serve large parts of the UK effectively. It is clear that East Midlands is geared up for major increase in freight tonnage supported by extensive logistic infrastructure development in the East Midlands Gateway and with the express support of local planning policy. Trucking of freight to Liege and to East Midlands is reflective of the air freight industry structure not the specific consequence of constraint in London and reflects the efficiency of centrally located hub operations. The repeated assertion that East Midlands is facing capacity constraints is not borne out by the facts, including evidence that the Airport is constructing additional aircraft stands as demand grows alongside facility developments by other parties such as UPS and Amazon (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 – ND.1.15 [REP4-065] and <https://mediacentre.eastmidlandsairport.com/new-facilities-for-east-midlands-airport-passengers/>) [REP4-065]."

Written Question ND.2.9

Forecasts

The chart set above paragraph 8 in the Northpoint report [REP4-031] appears to show a levelling out in 2017.

Is this more symptomatic of the overall period since 2000 as opposed to a longer trend from 2014 going upwards?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In this response, the Applicant seeks to dismiss the impact of the current downturn in global air freight tonnages. It is important to note that we did not factor the short term down turn into our assessment of whether there is a need for additional cargo handling capacity at Manston (see York Aviation Report, February 2019, Figure 4.7). Even without slowing the growth in the early years, there is no need for Manston."

Written Question ND.2.10

Forecasts

The Northpoint report [REP4-031] contains references to work carried out by Ramboll and Oxford Economics in 2014. York Aviation on behalf of Stone Hill Park Ltd state that the quotations used from this work are selective and uses graphs inconsistently. They consider that this work explains why fewer dedicated freighters are needed at London due to bellyhold capacity. Charts are provided from the work showing actual and forecast London Trend Bellyhold and dedicated freight growth from 19902050, with the same charts for the UK.

Provide further commentary on this report, addressing the points raised by York Aviation.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

“This response seeks to downplay the significance of the use of the wrong charts from the Oxford Economics/Ramboll work for Transport for London (TfL). It is clear that, when properly read, this work demonstrates that the growth in demand is for bellyhold capacity not pure freighters in the London area. This is a key point. When read as a whole, in the context of the Mayor’s position in relation to the need for hub capacity to serve London (on which York Aviation were concurrently working alongside Oxford Economics and Ramboll), it is clear that this analysis reflects the shortage of hub capacity for passenger and bellyhold operations combined rather than any shortage of capacity for dedicated freighters.”

Written Question ND.2.11

Forecasts At the Need and Operations Hearing (21/03/19) it was stated that the forecasts contained within the Azimuth report [APP-085] were indicative.

- i. Provide more information on such forecasts and their indicative nature.
- i. If indicative, what is rationale of using named carriers in developing the forecasts?
- ii. How certain are you that the indicative volumes and aircraft types would be likely to fulfil such forecasts? iv. Do the forecasts provide a realistic indication in your view; have the forecasts been subject to sensitivity testing/analysis?

The Applicant’s Response

Please refer to the Applicant’s answer as set out in REP6-012.

SHP Comments on the Applicant’s Response

Comments extracted from York Aviation note (see Appendix 1):

“The final version of Azimuth Reports may not identify carriers specifically but the fleet mix in the ES, which was stated by Wood at the Hearings to be derived solely from the work of Azimuth, does and this level of detail has been used to inform the environmental assessment along with the specific markets proposed and sector lengths (relevant to air quality and climate change considerations). The Applicant cannot resile from this as its evidence.

The response continues to claim that the forecasting methodology is robust, relying on Northpoint’s attempt to corroborate the Azimuth results (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5 (paras. 28-38) [REP5-031]. The response fails to provide the additional evidence to justify the forecasts requested by the Ex A and self-confessedly has failed to take key factors into account (see comment on ND.2.1 above).”

Written Question ND.2.12

Forecasts - Integrator

At the Need and Operations Hearing (21/03/19) it was stated that the integrator indicated in the forecasts would be a new integrator, as opposed to attracting an existing integrator from an existing airport. Mention was made of Amazon Air and Alibaba.

The ExA notes the evidence in this regard of York Aviation on behalf of Stone Hill Park Ltd, who state that Amazon has an embryonic operation in the UK with a leased Boeing 737 freighter operating to East Midlands Airport and is opening a 500,000 sq.ft. warehouse and sorting centre adjacent to this Airport, and that Alibaba has committed to establishing its main European hub at Liege Airport [Written Summary of Stone Hill Park Ltd's Oral Submissions put at the Need and Operations Issue Specific Hearing Held on 21 March 2019, submitted at DL5 reference not yet assigned].

i. Outline any discussions you have had with new integrators and quantify the likelihood of such operators coming to the Airport in the second year of operation, with reference to their expansion or growth in similar markets to the UK.

ii. Would such integrators not be predisposed to a more centrally located airport where the whole of England could be reached more easily?

The Applicant's Response

- i. Discussions have taken place with new integrators in the US and the Far East. This is a dynamic and rapidly developing sector to which huge sums of money have been allocated for the creation of new channels of distribution in the UK and throughout Europe. So far indications are that at least two of the new integrators would make an early commitment to Manston as soon as its status as an operating airport can be confirmed.
- ii. The attraction of Manston to such integrators is that it has no daytime slot constraints, unlike EMA for example, and also its proximity to the UK's largest market in London and the South-East of England.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The Applicant claims that two of the new integrators would make an early commitment to Manston but this is not supported by any evidence, nor are such integrators referred in response to question ND.2.2. In any event, East Midlands Airport is expanding facilities expressly for Amazon, which is developing a major fulfilment centre as part of the East Midlands Gateway. The answer does not provide any evidence that could be relied on. The assertion that East Midlands Airport has daytime slot constraints is without evidence and highly unlikely to be true."

Written Question ND.2.13

Forecasts – Integrator

At the Need and Operations Hearing (21/03/19) it was stated that the new integrator would be different to old integrators and would not be reliant on night time flights. In this regard the ExA notes the evidence provided by Altitude Aviation [Written summary of Stone Hill Park Ltd's oral submissions put at the need and operations Issue Specific Hearing held on 21 March 2019, submitted at DL5, reference not yet assigned] which provides a table which lists all flights for the first three Amazon Air aircraft registrations (as listed alphabetically) for the week 15-21 March 2019 in the USA. This table shows a large number of night flights.

- i. How would such an integrator dovetail with the proposed night flight ban at Manston?
- ii. Provide examples of existing flight schedules from new integrators where they exist to demonstrate likely flight times (in terms of times of day).

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"Despite the evidence provide by Altitude Aviation Advisory at Deadline 5 [REP5-029], the Applicant continues to assert that new e-commerce integrators would prefer to fly during the day on the basis that flights are not related to the achievement of delivery times but to restocking of fulfilment centres. However, in order to meet the delivery times required, goods need to be dispatched in the morning from these centres, requiring the restocking operation overnight. Overall, this response is muddled and inconsistent with other answers (ND.2.6, 2.14). If the requirement is for goods from overseas to be air freighted into stock fulfillment centres in the UK, this is inconsistent with the earlier answer that the widebodied aircraft would be carrying 100% outbound loads but only 20% inbound. This simply does not make sense. If the small feeders aircraft from Europe are bringing in imports to be distributed overseas by widebodied aircraft, how does that relate at all to stocking of fulfilment centres in the South East of England."

Written Question ND.2.14

Forecasts – Integrators

At the Need and Operations Hearing (21/03/19) Rockford International Airport was raised as an example of rapid growth at an airport mainly due to the presence of an e-commerce integrator. The ExA notes the stated proximity of this airport to Chicago.

- i. Amazon Air operate in the US where distances are significant between centres of population. How would such a model relate to possible operations in the UK, where population centres are closer together and trucking times therefore shorter?
- ii. What are the characteristics of Rockford Airport in terms of local population, access to markets, positioning within the US and night flight controls, and how do these relate to Manston Airport and to the UK market?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In this response, it is claimed that the e-commerce integrator would be serving routes mainly to the US and Far East. It is totally unclear why an e-commerce integrator would be concentrating on exporting goods to the Far East and the USA as stated in the response to ND.2.6. Surely the key feature of Rockford and the role it plays in the US supply chain is its central location between E and W coasts of the USA. The UK equivalent would be East Midlands and for Europe, this role is fulfilled by airports such as Liege and Leipzig."

It is also worth noting, that the increase in freight flowing through Rockford principally related to UPS's presence, and the transfer (i.e. displacement) of UPS operations (13 daily flights to Rockford International) from Des Moines airport. This was set out in in paragraph 3.19.4 of SHP's DL6 submission [REP6-055.

Written Question ND.2.15

Forecasts

Various evidence [including but not limited to APP-085, REP3-195] refers to freight forecasts provided by Boeing and Airbus.

- i. What is the purpose of such forecasts – why do Boeing and Airbus produce such forecasts?
- ii. Have they been historically correct?
- iii. Boeing predict highest Europe rises in freight between the continent and South America and East/South Asia. Would such markets be best suited by bellyhold from hub airports to by pure freighters?
- iv. Do the reports state or infer that pure freight is increasing at the same rate or higher than bellyhold?

The Applicant's Response

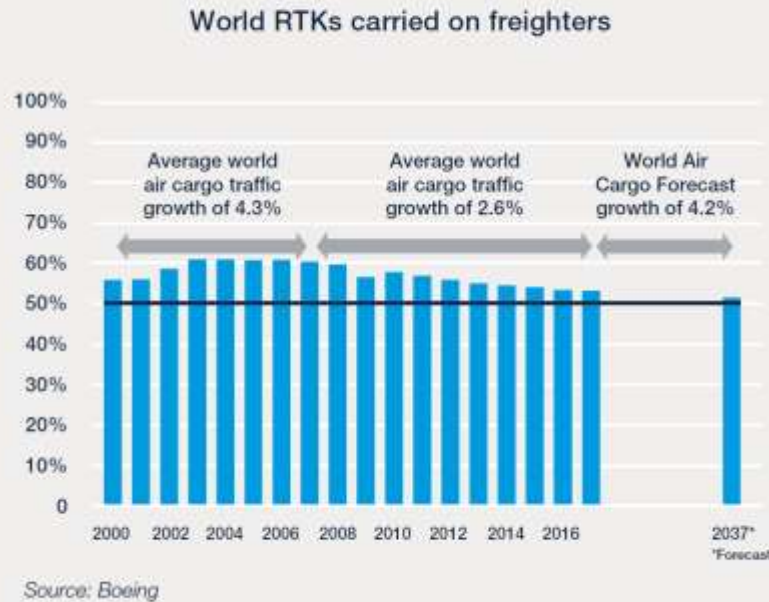
Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The response provided regarding the accuracy of Boeing and Airbus forecasts shows that Boeing was reasonably accurate in a 20 year projection of the total aircraft fleet but overstated demand for pure freighter aircraft by 25%. What the graphic provided shows is a reasonable degree of accuracy in forecasting total aircraft and revenue passenger miles but a significant overstatement of demand for pure freighters. The Applicant is wrong to state that Boeing does not project a decline in the share of freight carried in dedicated freighters globally. The Boeing 2018 Forecasts (<https://www.boeing.com/resources/boeingdotcom/commercial/market/commercial-market-outlook/assets/downloads/2018-cmo-09-11.pdf>) actually show a predicted reduction in the share of FTKs on freighters:

DEDICATED FREIGHTERS CARRY—AND WILL CONTINUE TO CARRY—MORE THAN HALF OF AIR CARGO TRAFFIC



The reduction in the share of freighter aircraft movements will exceed that of RTKs due to increased tonnage per aircraft. If cargo growth undershoots 4.2% p.a. as seems likely given short term trends, the role of freighters is likely to be less (compare the previous period with 4.3% growth to the more recent period with 2.6% growth when the role of freighters declined).

The analysis of currently served routes from Heathrow only serves to emphasise the breadth of destinations available on a bellyhold basis from Heathrow. It is the Government's intention that a substantial proportion of the new capacity offered by R3 will be used to allow additional global points to be served. To the extent that there remain gaps in the network, it is difficult to see how the operation of dedicated freighter aircraft to fill these gaps would be viable as levels of demand are likely only to warrant infrequent services, which would result in freight being delayed compared to using well established bellyhold hub routings."

Written Question ND.2.16

Your answer to ND 1.17 [REP3-195] appears to state that food is a high value, low weight freight type.

Is this a correct interpretation of your answer?

The Applicant's Response

Yes. 95% of the fruit and half of the vegetables in Britain are imported. Since 1992, the amount of food being flown into the UK has risen by 140% and is predicted to rise further each year. This category includes such items as green beans, asparagus, strawberries and out-of-season or exotic fruit, and fish and shellfish.

SHP Comments on the Applicant's Response

Whilst the Applicant has arguably answered the question by stating "Yes", it has provided no commentary to evidence this. A list of types of fruit, vegetables and shellfish that may be flown in/out of the UK without any analysis of the size and geographies of the relevant markets that require transportation by air freight is meaningless.

Comments extracted from York Aviation note (see Appendix 1):

"This response does not address the question posed. Fruit and vegetables are relatively high weight/low value compared to say diamonds or specialist pharmaceuticals or electrical components, for example."

Written Question ND.2.17

Your documents cite various evidence sourced from reports produced by York Aviation for Transport for London and the Freight Transport Association. At the Need and Operations Hearing (21/03/19) the author of these reports disagreed with your interpretation of such reports, considering that the evidence had been sourced out of context and did not take account of the conclusions of the reports.

i. What is your view on this?

ii. Do you still maintain that the York Aviation reports support your proposal, contrary to the view of the authors of these reports?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In relation to the repeated references to York Aviation's work for TfL and the FTA, the reports when read in their entirety do not support the Applicant's view. Whilst TfL may well have stated that the reports were unambiguous and that they had relied on them, it is our understanding that they were not specifically asked in relation to the implications for Manston. The Applicant needs to provide evidence to support its claims. It is simply not reasonable to accept the Applicant's interpretation of these reports over those of the authors, particularly when evidence has been produced to demonstrate that the methodologies used within them when applied to the current market position simply demonstrate that there is no role or need for Manston (York Aviation February 2019 Report, paras 4.31 to 4.41) [REP3-025]. We do not resile from the point made in the report regarding the potential additional trucking cost to shippers but it does not follow that the solution was ever the need for a dedicated freighter airport, rather the need was and is for more hub airport capacity at London providing bellyhold freight capacity, which R3 at Heathrow will provide. The ANPS rightly recognises that the 3rd runway at Heathrow is the means of addressing this need."

SHP would also respectfully refer the ExA to paragraph 4.5 (and relevant sections of Appendix NOPS.5.1) of SHP's Written Summary of Oral Submissions put at the Need and Operation Hearing [Rep5-029].

Written Question ND.2.18

Forecasts

York Aviation [Written summary of Stone Hill Park Ltd's oral submissions put at the need and operations Issue Specific Hearing held on 21 March 2019, submitted at DL5, reference not yet assigned] on behalf of Stone Hill Park state that the reason that trucking is common place within the general and integrator sectors relates to the price of aviation fuel, noting that since 2000, the price of aviation fuel has risen by 123%. They consider that this increase in the cost of air freight, and dedicated freighter operations in particular, is the primary reason why consideration of air freight trends prior to 2000 is no longer relevant and that the slowdown in growth in air freight tonnage reflects a shift in the balance towards trucking and even towards shipping for some goods that might previously have used aviation.

Comment on this viewpoint, providing evidence.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"To assist the ExA, we have set out below the information on fuel prices relative to 2000. This is taken from Platts (<https://www.spglobal.com/platts/en/oil/refined-products/jetfuel>). The chart provided by the applicant deals only with fuel prices since 2012, the relativity to 2000 is shown below.



	INDEX	CTS/GAL	\$/BBL	\$/MT	INDEX VALUE 2000=100%
Platts Global Index	100%	201.62	84.68	667.73	231.48%
Platts Regional Indices					
Asia & Oceania	22%	194.91	81.86	648.72	233.90%
Europe & CIS	28%	200.10	84.04	662.25	226.43%
Middle East & Africa	7%	192.00	80.64	636.22	240.81%
North America	39%	207.47	87.14	688.39	231.65%
Latin & Central America	4%	209.42	87.96	677.27	243.65%

This data (as referred to in the York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, para. 19) [REP5-031] confirms that fuel prices have risen by 131.5% since 2000. This increase brought about the change in the trend towards more trucking and less use of dedicated freighters. The more recent smaller magnitude falls have not been sufficient to reverse this trend.

The hypothesis that air freight does not lend itself to trucking does not bear examination. As the Steer Report for Airlines UK makes clear (see York Aviation Report February 2019, paras. 4.13-4.15) [REP3-025], there is substantial trucking into Heathrow from Europe to avail of transatlantic bellyhold capacity so the flow is not just one way.

The comments made in the response about rapid delivery with e-commerce appears, again, to contradict the claims above that e-commerce integrator freight will be less concerned with overnight speed of delivery and so be willing to operate in the hours when Manston is open."

Written Question ND.2.19

Show where and how you have factored in possible impacts from Brexit on your proposals, both in terms of economic effects and in terms of possible additional intra-European flight checks and security.

The Applicant's Response

It has not been necessary to explicitly factor in possible impacts from Brexit into the Applicant's proposals, because:

- The implications of Brexit are not yet fully known. It may well be the case that the UK's interest in forging new trading links beyond the EU will further add to the demand for Manston airport. Any problems or delays at port borders may also increase the attraction of Manston to the market. Given the uncertainty around Brexit these are not factors which have been taken into account in the forecasts.
- The Airport is being set up to trade globally and as such any distancing that is introduced between the UK and the EU would simply be dealt with in the same way as exists today between the UK and non-EU jurisdictions.

It is recognised that there may be some additional checks to be performed for passenger operations as a consequence of Brexit but these are not envisaged to be a major issue. Indeed, the airport passenger facilities are intended to be configured such that non-EU flights will be accommodated, which may simply mean all non-domestic services depending on the eventual outcome of Brexit.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response fails to address the possible economic effects of Brexit on GDP and demand. This is likely to far outweigh any temporary friction at the border, particularly given the emphasis on agreeing electronic solutions to border controls."

Written Question ND.2.20

Stansted Airport

In answer to question ND1.18 concerning Stansted Airport you provide a graph showing capacity available at the Airport. The graph shows substantial capacity available for flights at Stansted between 00:00 and 05:00, as well as 08:00-10:00 and 20:00-21:00 and lesser 21:00-24:00.

Is this correct?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response simply repeats unsubstantiated assertions about capacity constraints at Stansted. We have already made the position clear at ND.1.13, ND.1.18, ND.1.31, ND.1.39 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4. [REP4-065]"

Written Question ND.2.21

Stansted Airport

At the Need and Operations Hearing (21/03/19) it was stated that the recent planning consent to allow Stansted Airport to expand to 43mppa also removed caps on flight types, thereby allowing more passenger flights at the expense of cargo ATMs.

Would an effect of the removal of the CAP at Stansted also allow for more cargo flights than previously allowed?

The Applicant's Response

The case made for removal of the CAP at Stansted was to allow an increase in passenger traffic. As such, and since Stansted has not neared its limit of 20,500 CATMs (there were 9, 478 CATMs in 2018), it is impossible to claim that Stansted Airport has removed the cap on cargo flights so as to allow for more cargo flights than previously allowed. The removal of the cap is to allow an increase in passenger traffic.

The increase in passenger capacity is likely to take up the available capacity for flights identified in response to question ND.2.20.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The adjusted limits at Stansted, consequent upon the recent planning consent still provide for 60% growth in cargo flights at Stansted (see ND.1.18 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4) [REP4-065]"

Written Question ND.2.22

Stansted Airport

It is stated in answer to question ND1.18 [REP3-195] that there is no dedicated freight facility at Stansted that allows for freight turnaround. York Aviation [REP4-065] on behalf of Stone Hill Park Ltd note the existence of the dedicated freight World Cargo Centre of some 55,000m² warehousing and office, with nine dedicated stands.

- i. Comment on this facility, with dedicated and separate apron area for cargo flights as opposed to passenger flights.
- ii. Would Fed Ex also provide a freight turnaround service for third parties (for a fee)?
- iii. What freight other than FedEx integrator freight does Stansted handle?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The contents of this response in relation to physical capacity at Stansted are again just speculation. The position in relation to available stand capacity for freighter aircraft at Stansted is set out at ND.1.8 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 [REP4-065]. The answer provided by the Applicant appears to ignore the existence of the apron to the east of the Cargo buildings which is available and used for freighters. From the Google Earth image previously submitted (Answer ND.1.8), it is clear that there is no airside road connection to these stands from the passenger terminal so they would be unsuitable for regular passenger use."

We strongly believe that the current CAA data indicating that no freight is currently being carried on the Emirates services from Stansted since its inauguration on 2018 is incorrect (See Stonehill Park's Deadline 6 submission in relation to the Need and Operations Hearing, para. 4.43) [REP6-055]. "

Written Question ND.2.23

Stansted Airport

You state that in your view MAG publicly may continue to market Stansted as open for new freight business, privately and commercially, but they may in reality be increasingly resolved to discourage more ad hoc freighter movements (FEDEX are consistent/regular business), with the resulting traffic going to East Midlands or probably cross-channel.

If the Airport is as constrained, or becoming as constrained as you consider, would it not make sense for MAG to be promoting East Midlands Airport, being under the same ownership, and where, as you accept in the DL4 Northpoint report "there is significant growth potential"?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This answer provided by the Applicant fails to grasp the significant investment at East Midlands Airport in expanded modern freight facilities. New facilities will be just as state of the art as anything at Manston. This answer provided is nothing more than speculation."

Written Question ND.2.24

East Midlands Airport

How has the significant growth potential at East Midlands Airport been accommodated for in your forecasts/demand capacity modelling?

The Applicant's Response

Manston will primarily be targeting non-bellyhold traffic generated by, or delivered to, London and the South East using general cargo freighter aircraft, not the traditional integrators that dominate EMA's freight traffic base. We therefore see Manston and EMA as complementary, especially in the context of capacity constraints at other London and South East markets. Given this background and the GIS trucking time plots provided at deadline 3 [in [REP3-187](#)], we consider the scope for competition between EMA and Manston is limited and thus a complicated choice algorithm was not required in the project demand modelling.

This is why the Applicant relies on the Azimuth report, which was developed on the basis of an independent bottom-up assessment, rather than a comparative strategic evaluation using gravity model coefficients.

Northpoint's strategic top-down review of forecasts, which does include other airports to form a national level overview of demand and capacity, corroborates the Azimuth report, using broadly similar CAGR growth rates to Azimuth.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response appears to be based on the concept that there is a unique market for dedicated freighter aircraft serving London and the South East in isolation from the rest of the country. There is no evidence that this is the case and goods flown from London often originate in the rest of the country but are consolidated in the vicinity of Heathrow as part of the process of seeking the most cost effective means of transport for goods, taking into account both time and cost. There is ample evidence that much of the air freight currently flown from London airports has origins or destinations in the rest of the country (see York Aviation Report February 2019, paras. 2.18, 4.25-4.27) [REP3-025]. Manston would inevitably be in competition with East Midlands to attract a share of this traffic and, given the overall location of demand across the UK, it would be reasonable to expect East Midlands to be the preferred alternative for any overspill from the London airports. The Applicant simply has not factored how the industry works in practice into its forecasts, including the role of East Midlands as a growing logistics hub."

Written Question ND.2.25

East Midlands Airport

It is stated in the Applicant's Written Summary of Case put Orally – Need and Operation Hearing document that Figure 4 of the Azimuth report (APP-085), shows businesses served by integrators at East Midlands Airport, and that, as is apparent from the map, this Airport serves a wide catchment area, including

the big market of London. It is then noted that Manston Airport is ideally located to serve this South East market. This appears to be stating that Manston would be able to attract some of the freight currently routed through East Midlands Airport.

Explain how this displacement of business has been accommodated within the socio-economic forecasts.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The Applicant is not strictly correct to argue that there would be no displacement of activity from East Midlands. In the counterfactual case of no development at Manston, East Midlands would be expected to accommodate a large part of the demand and is investing, with partners such as UPS, in facilities to enable it to do so, supported by local planning policy (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4, ND.1.15) [REP4-065]. If Manston were to enter the market and achieve any share of the projected market, this would be diverted from other UK airports and would need to be taken into account in any national level assessment.

Nor is it correct to construe that the conventional integrators (DHL, UPS etc) constitute a distinct market from the 'new' e-commerce integrators (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 42-45) [REP5-031]. There is growing commentary in the media regarding the competitive inter-relationship between Amazon Air and the conventional integrators, which clearly see displacement of activity (e.g. <https://dailymemphian.com/article/4718/Amazon-Prime-One-Day-Will-it-hurt-or-help-FedEx>). It is clear that the markets are not distinct. In any event, Amazon is already present at East Midlands and if it was somehow attracted to Manston instead, this would be displacement.

There is no evidence that East Midlands is turning general freighters away, the limited operation is more reflective of the limited market for such freighters, which could use East Midlands if any activity was, in future, displaced from Stansted. The critical factor here is proximity to the freight forwarding cluster at Heathrow, where loads are consolidated, not the general South of East of England market. In this context, Manston offers little to no reliable advantage.

Hence, some element of any growth at Manston would effectively be displacement, so leading to reduced economic activity at other airports and reduced employment that would need to be taken into account at the national level of the employment forecasts as presented by Azimuth."

Written Question ND.2.27

The Northpoint report [REP4-031] points to a ‘window of opportunity’ for freight at Manston prior to the Heathrow Northwest runway opening, where time exists for Manston to gain a foothold in the freight market and then expand thereafter. You also state that recent increases in Gatwick freight volumes would likely return to Heathrow once the third runway opened, and in the Need and Operations Hearing (21/03/19) you stated that this was different to the proposal in this case due to the difference between bellyhold and pure freight.

i. Expand on this viewpoint, including on how you consider your scheme to be complementary to the preferred scheme outlined in the Airports NPS.

ii. Why would the ‘window of opportunity’ be important if your role is complementary?

The Applicant’s Response

Please refer to the Applicant’s answer as set out in REP6-012.

SHP Comments on the Applicant’s Response

Comments extracted from York Aviation note (see Appendix 1):

“The dominance of long haul freight at the London airports is reflective of the global connectivity offered by Heathrow in bellyhold. The fact that most freight is shipped this way is reflective of bellyhold capacity available. Given the available bellyhold capacity at Heathrow and, increasingly, at other UK airports, there has been little need for dedicated long haul freighters. It is for this reason that the ANPS sees R3 at Heathrow as the primary means to ensure that the UK’s air freight requirements are met for the longer term.

Although the ExA’s question asked about the “window of opportunity” for Manston, as raised in the Northpoint Report submitted at Deadline 4, the answer now seeks to construe Manston’s role as entirely complementary to Heathrow. It would be helpful to the Examination if the Applicant could clarify what their position is. In practice, if there was realistically a complementary role for Manston, why would this not have manifested itself by growth at Manston prior to its closure in 2014, given long standing congestion and shortage of slots at Heathrow and in the light of the ambitious plans for air freight growth being advanced by its previous owners and operators (including Plane Station for which Tony Freudmann was a Director). It is more likely now that any potential complementary role would be materially lessened as a consequence of the additional capacity provided by R3.”

Written Question ND.2.28

At the Need and Operations Hearing (21/03/19) you were questioned on why other UK airports, whether in the South East, Midlands or south Yorkshire would not seek to take advantage of the demand which you state exists for pure freight flights, particularly given the availability of permitted development powers.

Your answer centred around the ease on which the proposal could allow a brand new, modern, automated and digitalised airport to be built on a 'greenfield' site as opposed to an existing airport.

- i. Expand on your reasoning that it would be simpler to build such facilities at Manston as opposed to existing operational airports with their access to land and permitted development powers
- ii. Reference was made to mechanisation. Expand on this with regard to likely job levels at Manston.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The response seems confused regarding permitted development rights, as the ExA has pointed out the latest issued questions of 10th May. Cargo aprons and supporting operational buildings could be built as permitted development under Class F of the General Permitted Development Order 2015, albeit they would be subject to environmental screening and potentially environmental assessment dependent on scale. The 15% restriction applies only to passenger terminal buildings. Again, the Applicant's answer depends on the unsubstantiated thesis that the other airports (East Midlands and Stansted) will seek to displace general freighter activity.

There is no reason why the other airports could not use Permitted Development rights or otherwise apply for permission for such state of the art buildings as the Applicant proposes for Manston if there was, indeed, a business case for them.

It is important to recognise that the risk of aircraft being subject to delay at an airport is not due to slot constraints at the airport in question as these slots relate to planned operations. Rather, the issue of "cargo aircraft being delayed for some considerable time waiting for a slot" is more often related to the

need to obtain an ATFM (Air Traffic Flow Management) slot from Eurocontrol related more generally to congestion in the airspace over Europe as a whole. Manston will also be subject to such potential delays, which happen regardless of congestion or not at the departure airport.

This answer further repeats the claim that automation will not affect ‘existing’ jobs but that is not the point. An automated airport will almost inevitably have a lower employment density than a current cargo airport (see further comments on answers to SE.2.2 and SE.2.4 below). This will impact on the employment forecasts going forward.”

Written Question ND.2.29

European airports

Various evidence [including but not limited to APP-085, REP3-195] relates to European Airports, with Frankfurt, Paris, Amsterdam, Leige and Leipzig variously being cited as examples of airports where dedicated freighters thrive. York Aviation [REP4-065] on behalf of Stone Hill Park consider that the greater number of dedicated freight aircraft at these continental airports is partly explained by the well-developed freight forwarding infrastructure based around them given the global connectivity offered by hubs and the airlines based there, with the freight infrastructure and consolidation centres from their bellyhold operations also making them first choice for dedicated freighters. Leige and Leipzig appear to be integrator hubs, like East Midlands Airport.

Comment on these assertions and viewpoints.

The Applicant’s Response

Please refer to the Applicant’s answer as set out in REP6-012.

SHP Comments on the Applicant’s Response

Comments extracted from York Aviation note (see Appendix 1):

“This response misrepresents our position. Integrator bases, and their supporting infrastructure, rely on central locations able to serve large markets, i.e. Leipzig and Liege, and East Midlands in the UK on a smaller scale. Manston is simply in the wrong location to be favoured for this type of operation.

The concentration of infrastructure around the main hubs relates to infrastructure supporting bellyhold operations which also, in the case of Frankfurt, supports some dedicated freighter activity to compensate for the lower volume of bellyhold capacity available there.

As noted at ND.1.10 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 [REP4-065], the use of the DfT capacity chart from UK Aviation Forecasts 2017 is not relevant as it relates only to passenger terminal capacity and the circumstance of no third runway at Heathrow. We have not expressed concern about the competitive effect of Manston on the case for R3 but the exact converse."

Written Question ND.2.30

Locational factors

The ExA note that, although your Transport Assessment has not assumed that the Lower Thames Crossing would be implemented, you consider that the Lower Thames Crossing would allow easier access to the M11/A14 corridor, and consequently allow for quicker and more reliable times to the biomedical industry and technology companies in Cambridge, the M11 Growth Corridor and prospectively to the planned Varsity Corridor.

The ExA notes that the M11 provides access to Stansted and that access to East Midlands can be achieved via the dual A14 and M1.

i. Would Stansted Airport not be more accessible to industries in the Cambridge area?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response by the Applicant contains the unevicenced claim that Manston would offer "lower shipping costs". This flies in the face of the Applicant's own business model showing materially higher charges and the evidence related to the relative cost of dedicated freighter operations compared to bellyhold, which stands unrebutted. This statement is not consistent with the 'price setter' claim made by the Applicant."

Written Question ND.2.31

UK airport capacity

Your answer to ND1.10 [REP3-195] states that little additional terminal or runway capacity has been added to the UK national infrastructure in many decades. However, the ExA is aware of the construction of the 2nd runway at Manchester at the turn of the century and of other terminal enhancements or constructions around the UK in recent times, including Heathrow Terminal 5.

- i. Provide evidence for your assertion that little additional terminal or runway capacity has been added to the UK national infrastructure in many decades
- ii. Are there other ways and means of providing new runway capacity aside from building new runways?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response contains a long treatise on the length of time taken to build new runways in the UK. However, the response does not address the ability of airports to add cargo handling capacity where and when needed.

The second part of the answer deals only with the scope for adding hourly capacity on a runway that is already operating at its maximum. Utilisation of a runway can be increased by providing additional infrastructure, e.g. stands, terminals, to allow greater utilisation of existing available capacity and by increasing utilisation over a day. In many cases, the declared runway capacity at an airport may reflect the operation of other constraints, often stand/apron constraints, which mean that the full use of the runway cannot in practice be achieved without the provision of other infrastructure, some of which may be permitted development or otherwise considerably easier to obtain planning consent for."

Written Question ND.2.32

Your answer to ND1.40 [REP3-195] states that mail services have not been included in the forecasts contained within the Azimuth report [APP085] as they tend to require night operations, yet such services are included in the ES forecasts, with 770 postal services forecast by year 20.

Which is the correct forecast?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"It is now asserted by the Applicant that the 770 B737 movements shown as operating Postal Services will not in fact be related to mail services, as shown in the ES, due to the night movement restrictions now proposed. This implies they would be for some other unstated purpose. Given the Azimuth 'forecast' relied on for the ES was produced bottom up, airline by airline/route by route, rather than developed from consideration of an overall share of the market, the need for these services does not exist independent of the airline/route expected to operate them. Hence, if these are not mail services, they have to be stripped out of the forecasts. Similarly, any other specific operations which could not operate at night due to the planned restrictions, such as integrator operations, would also have to be stripped out."

Written Question ND.2.33

Freighter movements

Your answer to ND1.41 [REP3-195] notes that 2018 CAA data shows a total of 53,628 cargo ATM's for 2018 and states that almost all ATM's are non-domestic since freight is rarely used to move cargo within the UK. Stone Hill Park [REP04-067] note that this figure includes more than 21,000 domestic cargo ATMs and that in total there were 33,727 nondomestic cargo ATMs in 2018 for the whole of the UK. This evidence also states that for England and Wales 58% of the non-domestic cargo ATMs related to East Midlands Airport, with 17% Stansted, and that around 57% for East Midlands and 37% for Stansted of these flights were estimated to be night flights.

This leads to an estimation that there were nearly 19,000 daytime nondomestic cargo ATMs in England and Wales in 2018.

- i. Provide more evidence on your assertion above that almost all Cargo ATM's are non-domestic since freight is rarely used to move cargo within the UK
- ii. Comment on the evidence provided by Stone Hill Park and any impact/effect this may have on your forecasts and the likelihood of them coming to fruition.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

- i. It would have been far more helpful to the examination if the Applicant had properly acknowledged, up front in its response, that its assertion that *"almost all Cargo ATM's are non-domestic since freight is rarely used to move cargo within the UK"* was materially incorrect.

Instead, the Applicant has attempted to minimise this fundamental failure and obfuscate rather than just admit its errors.

A closer review of the response (by reference to the CAA statistics) at least shows the Applicant has now accepted SHP's evidence was accurate, and that the CAA statistics demonstrate that the Applicant materially overstated the number of non-domestic ATMs in the UK by up to 59% (i.e. almost all of 53,628 vs. 33,727).

However, the Applicant's answer seeks to divert attention away from the subject of the ExA's question (i.e. freighter movements), before stating that it *"maintains that most UK cargo flights are non-domestic"*. *"Most"* has a very different meaning from *"almost all"*, particularly in the context of such a small market, which is dominated by the major integrators.

- ii. The Applicant has made a number of assertions that it has not even attempted to substantiate. Firstly, it disputes the evidence (supported by real data) provided by SHP that there are only 19,000 daytime non-domestic cargo ATMs. The Applicant simply asserts that it does not consider the estimate to be sound, but can give no reason why. As an entity that purports to be serious about developing an airport, there is no excuse for the Applicant not understanding its target market inside out. We would also refer the ExA to the following comments from York Aviation;

"This response seeks to rebut the point made by Stone Hill Park regarding CAA data by reverting to using Boeing RPK forecasts and applying these to non-domestic freighter movements to argue that there is sufficient market for Manston. This is nonsense, as we made clear in the York Aviation November 2018 (para. 2.47) and February 2019 (para. 3.23) reports [REP3-025]. This is once again a misapplication of data and growth rates by the Applicant."

It is unclear where the up to 1.5 million tonnes cited of excess cargo comes from but, to the extent that this derives from the Northpoint Report submitted at Deadline 4, we have explained how this is not a proper or realistic approach in the York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 28-38 [REP5-065]."

Written Question ND.2.34**Business model**

The Applicant's "Written Summary of Case put Orally – Need and Operation Hearing" [submitted at DL5, ref not yet assigned] document provides a commentary note on the summary business model. It states that a cargo operation at Manston will be accessing demand that is either diverted elsewhere or not functioning due to the severe capacity constraints in the South East of England. This, it is stated, "exists at a general non-specific level and an idiosyncratic level pertinent to Manston itself" and that consequently Manston as a cargo operation will be, "within reason, a price-setter rather than a taker"

- i. In an aviation and geographical context, what characteristics are peculiar to Manston over other UK airports?
- ii. Define 'idiosyncratic' in this context
- iii. In the event of such 'severe capacity constraints', why would demand not overspill to other UK airports outside of the South East, such as East Midlands, Birmingham or Doncaster Finningley?
- iv. Given this, and the availability of road freight, how much of a 'price setter' could Manston be?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The only advantages that the Applicant claims for Manston are its runway length, which is no longer than several other airports in the UK, its geographic location in the UK, which is more of a disadvantage than an advantage relative to the totality of the market, and the fact that it is currently unused. This latter point is not an advantage as it means that anyone wishing to use it will have to bear the full cost of bringing it into use.

The response again claims, without evidence, that Azimuth's 'forecasts' take into account growth at other airports and that it can intercept demand otherwise being trucked between the UK and Europe. There is no evidence as to why this should be the case (see above in relation to the Northpoint Report).

The response implies that shippers will be willing to pay anything to achieve speed of transit. This is simply not so and shippers will balance speed and cost, other than for very specialist consignments (e.g. organs for transplant) where speed is absolutely the critical factor. This latter part of the market is only a small part of the whole."

Written Question ND.2.35

Passenger forecasts York Aviation [REP3-025 – Updated Critique of Assessment of the Need and Justification for the development of Manston Airport as an Air Freight Hub – Chapter 5] consider the passenger potential of the proposed development in detail, concluding that the proposed development might achieve around half of the number of passengers (750,000) forecast within the Azimuth report [APP-085], but to do so there would need to be an allowance for passenger aircraft movements in the night period. They also consider that the build up to such levels of passenger throughput would be significantly slower than projected.

- i. Provide further justification for your passenger forecasts and evidenced counter arguments to this viewpoint.
- ii. Would such forecasts be achievable bearing in mind the commitment in the Noise Mitigation Plan [REP4-023] that an aircraft could not take-off or be scheduled to land at night between 2300 and 0600, and further noting potential freight traffic which may wish to use the periods immediately before and after the night time restriction?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The response cites projections for passenger operations produced by Aviasolutions in its 2016 Report for Thanet District Council as validating the Azimuth passenger 'forecasts'. Significantly, these projections did not take into account the potential for greater use of infrastructure at Gatwick and Luton airports, both of which are proposing to increase their capacity on their existing runway infrastructure. To the extent that the Aviasolutions projections for Manston were heavily dependent on 'spill' from other airports, these increases in capacity will remove the spill component to a large extent, leaving the projections dependent on the assumption of 800,000 passengers a year as attainable from a Ryanair base. Furthermore, when Aviasolutions put together its projection, the prospect of a restriction on night operations at Manston was not known so Aviasolution will not have factored in the deterrent effect that would have on any airline basing aircraft at the Airport.

The remainder of the response simply restates the assertions regarding the potential passenger markets from the Azimuth Reports without providing further evidence or explanation. Claims that the Azimuth 'forecasts' take into account the elderly who would prefer to use small airports and the importance of pilgrims are simply distractions. The response does not provide any quantification of the size of these markets.

In relation to Southend Airport, it has seen strong growth in recent years but examination of its latest published accounts for FY2017/8 (London Southend Airport Ltd – Companies House) shows that its operating losses worsened from £3.6 million to £6.5 million, which strongly indicates that it has been ‘buying traffic’. On the basis of the aeronautical charges proposed by RSP for Manston in its business model, it would not be realistic to assume that similar growth could be seen at Manston without substantial erosion of the projected income.

The list provided of Ryanair flights after 23.00 at regional airports may be correct but the important consideration is not what proportion of flights operate at night but the impact that a night constraint would have on the flexibility to maximise use of any based aircraft over a week. This is an important consideration for an airline considering where to base aircraft and needs to be taken into account (see para. 4 of York Aviation’s Note of Oral Evidence given at the Noise Hearing submitted at Deadline 5) [REP5-065]. The Applicant should be asked explicitly if Ryanair is aware of the night flying policy and whether it is still committed to basing 3 aircraft in these circumstances and at the price that RSP expects to charge for using the Airport as shown in the model. The fact that Ryanair has no based aircraft at Exeter simply highlights that flexibility to schedule some flights to operate after 23.00 is essential to attaining based operations.”

Written Question Ns.2.18

Aircraft fleet mix

The applicant at the Need Hearing on the 21 March 2019 made clear that conventional integrator operations are no longer expected at Manston and that such movements would be made instead by ‘New’ e-commerce integrators operating a different pattern of flights not requiring night operations.

Given that 48% of the movements in Year 20 are shown in the ES (Appendix 3.3 [APP-044]) to be by a conventional integrator, of which half were expected to be using quiet ATR-72 turbo-prop aircraft, the substitution of these movements by a ‘New’ integrator would be expected to use more Boeing B737 types rather than turbo-props.

The Applicant stated at the Need Hearing ISH2 that the noise assessments were made on the basis of the specific fleet mix set out in Appendix 3.3. of the ES [APP-044], including by reference to the individual aircraft and their engine types operated by the named airlines in that Appendix.

Given the likely change in the nature of the operators and the fact that several of the airlines do not operate freighter aircraft of the types specified (see York Aviation 2019 Report para. 3.10), would the Applicant agree (and if not why not) that the fleet mix assessed is almost certain to understate noise exposure relative to what is now proposed?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"It is not clear what the impact of a commitment to a noise contour area cap would have on the 'forecasts' of usage if, for example ATR72s were replaced by B737 or other jet aircraft or if the GA movements included some element of business jet operations consistent with the proposal to develop an FBO (Fixed Base Operation)."

Written Question Ns.2.19

Flightpaths

The assessment appears to be based on assumptions about flight paths that rely on broader airspace changes to be delivered as part of the Future Airspace Strategy Implementation South (FASI S) Airspace change programme (Government/CAA Airspace Modernisation Strategy), which will require coordination with NATS and other airports. There can be no certainty that the proposed flightpaths which the noise assessment is based on will be deliverable.

Would the Applicant agree that a worst case assessment would need to be based on flightpaths as previously operated when the airport was open?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"The Applicant's response addresses why new flightpaths are needed to reflect latest R-NAV practices but does not answer the question as to whether the proposed noise minimised flight paths are likely to be acceptable or whether an R-NAV variant of the previous flight paths should have been adopted as a more realistic basis for assessment in the first instance."

Written Question Ns.2.21

Aircraft which would need to operate on a delayed basis during the night period.

The Applicant asserted at the Noise ISH on Friday 22 March 2019 that there would be a limited number of delayed passenger flights only but that these would be few in number as low fares airlines schedule their arrivals before 22.00. Stonehill Park/York Aviation in their Note of Oral Evidence given by York Aviation for Stone Hill Park at the Noise Hearing 22nd March 2019 submitted at Deadline 5 state:

“This is incorrect including for the example airport cited by Mr Freudmann, Luton. At Luton, for Summer 2019, 15% of all passenger aircraft arrivals are scheduled to arrive between 23.00 and 06.00. For Ryanair, the carrier shown by RSP as operating to Manston, has 17% of its arrivals in the night period (Source: Official Airline Guide database). This means that, on the basis that each aircraft operates c.2.5 round trips a day, up to 40% of low cost airline aircraft are arriving back to the base in the night period. The pattern at other airports with low cost airline bases is similar. With the restrictions proposed on scheduling operations in the night period, it is now highly unlikely that a low cost airline would contemplate setting up a base at Manston as it would fundamentally restrict the ability to flex.”

Would the Applicant agree that the reduction in passenger flights would have a material implication for the asserted revenues in the Business Model?

The Applicant’s Response

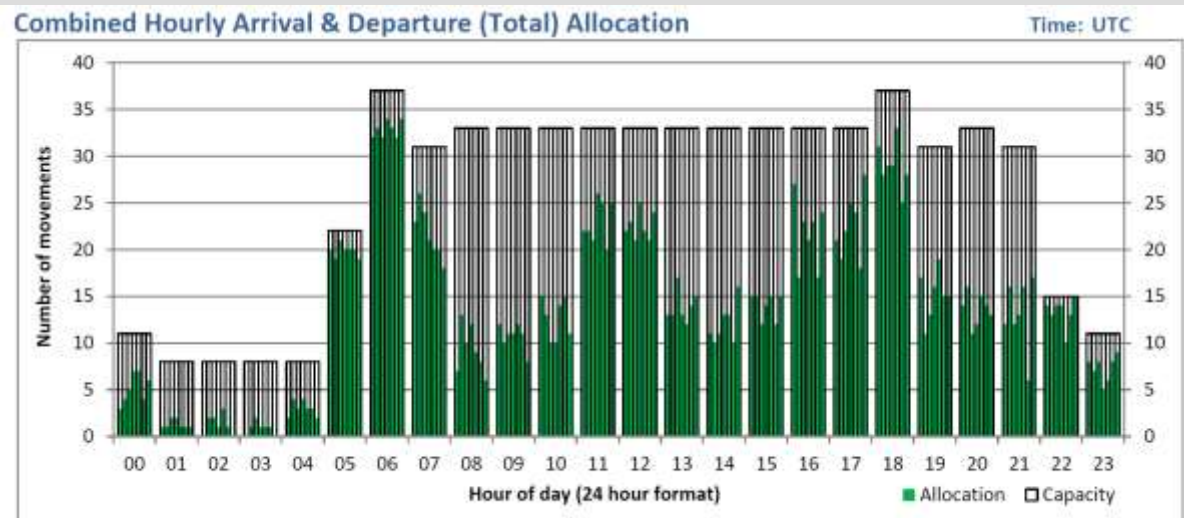
The Applicant does not accept York Aviation’s extrapolations as to the operating schedule of low cost carriers (see response to ND.2.35). Analysis of arrival times at other UK airports indicates that York Aviation’s figure of 40% of LCCs arriving in the night period is a significant overstatement. The Applicant notes that capacity at Luton airport is extremely constrained at all times and particularly either side of the night time period, forcing more flights into the night time period. No doubt for this reason it was selected as an example by York Aviation.

Nor does the Applicant accept that restrictions on night time flights will deter all low cost airlines from setting up a base at Manston. As explained in response to question ND.2.35, compared to other UK airports, Manston Airport’s geographical location means that flight times are likely to be shorter and avoid congested London airspace. Flights to and from Manston Airport and Portugal, Spain, France, Italy, Switzerland, Greece, Turkey, Bulgaria, Croatia, Austria and parts of Germany save time on each sector length using Manston. This means that flight times are shorter and the same number of rotations can be completed in less time, reducing the need for late arriving flights. Shorter flight times and less time on approaches into airports within the congested London airspace mean less fuel burn (and less emissions) and reduce crew working time, potentially making airline operations from Manston more profitable.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"As noted in response to ND.2.35 above, the Applicant clearly does not understand the point being made: with 15% of arrivals at night this equates to 40% of based aircraft requiring a movement in the night period as part of their overall daily pattern of rotations as, by definition, the remainder of flight operations are outside of the night time period. Therefore, the effect of any restriction in operations after 23.00 (notwithstanding that Manston many avail of marginally shorter flight times on some sectors) reduces the likelihood of aircraft being based. As the majority of passengers forecast to use Manston are claimed to be on based aircraft, this is an important consideration. The reason that Luton was chosen as the example in York Aviation's Note of Oral Evidence given at the Noise Hearing submitted at Deadline 5 [REP5-032] is because that was Mr Freudmann's example given in oral evidence. The night movements arise by consequence of the rotation pattern of aircraft to maximise economic usage of the available flying hours not any slot restrictions in the period leading up to the night time. To the extent that there are operational constraints at Luton currently, the limiting factor is availability of stands for overnight aircraft parking rather than slots in the period leading up to 23.00 as can be seen in Luton's pre-season scheduling report for Summer 2018 (<https://www.acl-uk.org/airport-info/>), which shows up ample slots to be available."



Written Question OP.2.1

At the Need and Operations Hearing (21/03/19) it was confirmed to the ExA's understanding that the Aerodrome Certificate and the Airspace Change Process would both take around two years to complete after any Development Consent Order was made.

- i. **Is the ExA's understanding correct?**
- ii. **Would the period for the Aerodrome Certificate commence from the DCO being made (if made) or from the acquisition of the airport land?**

The Applicant's Response

- i. Yes.

Aerodrome Certificate - as was agreed at the CAA interface meetings it is anticipated that it will take 6-12 months for the CAA to consider an Aerodrome Certificate application once made. However, before a submission can be made it was agreed that it will take at least 12-18 months to gather and collate the necessary evidence to support the application. The CAA is exploring how it may be engaged in this evidence gathering phase so as to ease its own burden in subsequently considering the application.

Airspace Change Process – the CAA indicate that an airspace change would normally take 108 weeks to complete. The Applicant will also need to engage with the Future Airspace Strategy airspace modernisation programme now to ensure that Manston's requirements are considered when developing a holistic airspace solution for the South East of England. This gives a fixed start-point for the airspace change project although its subsequent submission will be at a later date.

- ii. Preparations for both the Aerodrome Certificate and Airspace Change Process will, by necessity, begin during consideration of the DCO, but formal submissions to the CAA for both projects will only be made after the acquisition of the airport land.

SHP Comments on the Applicant's Response

- i. Aerodrome Certificate: the Applicant's previous submissions on this matter have lacked precision, and again it has provided no evidence to support the assertion that the *"CAA is exploring how it may be engaged in this evidence gathering phase so as to ease its own burden in subsequently considering the application."*

It would appear that the Applicant is attempting to create an impression that the CAA would fully engage in the "evidence gathering phase" well in advance of the acquisition of the land. The Applicant's requirement for an airport to be operational by Q1 2022 is wholly reliant on the CAA engaging with it up to 18 months in advance of the point at which the Applicant could acquire the land.

As this position contradicted the advice the CAA previously provided to SHP (see SHP's response to this question submitted at DL6 [REP6-053]), SHP further clarity from the CAA.

Written Question OP.2.2

Airspace Change Process

At the Need and Operations Hearing (21/03/19) Stone Hill Park raised the prospect of the Future Airspace Strategy Implementation South (FASI South) proposal for air traffic route structures in the southern part of the UK to change. Written evidence from Stone Hill Park [written summary of Stone Hill Park Ltd's oral submissions put at the need and operations Issue Specific Hearing held on 21 March 2019, submitted at DL5, reference not yet assigned] states that should all airports consult simultaneously in 2022 that this could be expected to be complete by 2024-2026, and that this represents a significant impediment that requires to be fully considered.

- i. Comment on any effect FASI South may have on your proposed ACP.
- ii. Would your application be delayed to 2022 as Stonehill Park suggest?

The Applicant's Response

i. FASI South will not be an impediment on the Manston Airport project. The London Terminal Manoeuvring Area (LTMA) was built piecemeal using legacy aircraft performance and conventional ground-based navigation constraints. It is reaching capacity, requiring modernisation via a clean-sheet redesign. In accordance with the UK Future Airspace Strategy (FAS), taking advantage of the potential benefits of Performance-Based Navigation (PBN), the use of Global Navigation Satellite Systems (GNSS), will enable significant improvements in both capacity and environmental impact. This change makes major changes to the LTMA airspace and the Air Traffic Services (ATS) route network. The proposed changes will interface with departures and arrivals serving major ('core') LTMA airports. Other airports ('non-core') will also be considered and accommodated. The changes to the LTMA will be coordinated with individual 'core' and 'non-core' airports' airspace changes and will complement them, improving the efficiency & capacity of the region.

The Future Airspace Strategy Implementation South (FASI South) Programme Board has recognised that there will be complex and inter-related airport airspace change consultations, particularly within the 'core' area (Heathrow, Gatwick, Stansted, Luton, London City, Southend, Biggin Hill and Farnborough) producing consultation and 'decision making' overload for stakeholders, sponsors ('applicants') and the CAA alike. Manston is on the periphery of this LTMA airspace ('non-core'), and the Applicant's airspace change proposal will run in advance of the majority of the airports in the LTMA. Importantly however, though not a 'core' airport, due to the 'clean sheet' approach described above, there is a need for the FASI South project to understand, and take into account, the requirements of all airports within the programme; this is the phase we are currently supporting. Thereafter, it is accepted that the airspace changes at some 'non-core' airports may run at a different pace to address a specific local, operational, safety or environmental need. FASI South is intended to take into account, but not constrain, the requirements of all 16 airports currently in the programme.

ii. No. The Manston Airspace Change process has begun, as it has for a number of the FASI South airports. The Heathrow Expansion ACP is running to the timetable identified by Stone Hill Park but most FASI South airports will run in advance of that programme and it is expected that the large majority will have the final applications (submission for final proposal) to the CAA before April 2022. There is also expected to be a phased implementation of changes to sections of London Airspace; as Manston is a 'non-core' airport, to the extreme east of this airspace, it is expected that implementation of Manston's 'changes', particularly the Aerodrome Traffic Zone (ATZ), can be made by end of March 2022. Hence, the application for the change in spring 2021 followed by the CAA decision procedure (minimum 5 months) and then an implementation phase of 3 months This will be well ahead of the 'core' area airports to obviate London Airspace programme overload (be that in terms of CAA regulatory scrutiny and approval or highly complex air traffic system adaptations).

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"We do not believe the response regarding FASI-S to be correct and that the risk of delay to opening remains."

Written Question OP.2.3

Scale and capacity

The Applicant's Written Summary of Case put Orally Need and Operation Hearing [submitted at DL5, reference not yet assigned] provides a justification for stand use and need for the proposal. This states that each based aircraft will have its own dedicated stand and assumes that nonbased aircraft will have an average ground time of 3 hours. There is then a calculation to allow for 'bunching'. York Aviation for Stone Hill Park [REP3-025] note that based on the aircraft mix not all projected aircraft require Code E stands, with 40% of movements projected to be by smaller Code 'C' aircraft. They state that it is normal practice to accommodate 2 Code C aircraft side by side in a Code E stand, and that as Code C aircraft are shorted that the length of a number of stands could be shortened, reducing the amount of apron/hardstanding needed. Based on this, and the forecasts within the ES and operations at East Midlands they consider that a maximum of 9 stands would be required, with potentially one stand added for resilience purposes, resulting in 10 stands being needed.

- i. Why does each based aircraft require a dedicated stand?
- ii. Provide further justification for the bunching calculation.
- iii. Comment on the York Aviation calculations.

The Applicant's Response

- i. It is likely that each based aircraft operator will wish exclusive use of a stand to allow specific ground handling equipment to be located there and access to the aircraft for maintenance purposes. As stated in the York report linked to REP3-025, based aircraft may wish to park for many hours thus prohibiting that stand for any other use. The comment about code 'C' aircraft being able to share a code 'E' stand is valid in principle but, in

practice, would be quite restrictive as there is nothing at all to ensure or even suggest that the code 'C' aircraft would operate in pairs and therefore a single code 'C' aircraft would effectively block a full code 'E' stand for any aircraft above code 'C'.

- ii. The bunching calculations are a best estimate of what is conservatively considered most likely; one of the benefits of using Manston will be a high degree of reliability and access. It should be noted that East Midlands has 24 code E stands and handles about the same volume of freight (but over more movements) as Manston is forecast to handle by year 20. The operating day at Manston will be less than that at East Midlands meaning that the stand usage will be more concentrated.
- iii. The York calculations make assumptions about shared stand usage which is not something envisaged by the Applicant to take place at Manston on a regular basis; furthermore, the York calculations are inconsistent with East Midlands having 24 code E stands.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In terms of the need for dedicated aircraft stands for based aircraft, the comment about a requirement for dedicated equipment on each stand is nonsense as this implies specialist equipment for each individual aircraft. Operators are highly unlikely to want to pay for dedicated stands or dedicated equipment as this would not be consistent with cost efficiency.

There is no evidence that the aircraft cannot be scheduled and stand allocation planned to allow MARS (multiple apron ramp system) use. Such multiple centerline operations take place at virtually all major airport with a mix of Code C and Code E operations so as to ensure that the efficient use of valuable apron space is maximised.

We do not believe the information provided by the Applicant regarding East Midlands Airport having 24 Code E stands to be correct. There are multiple centerlines for different aircraft use types in use at East Midlands and our information as to the stand availability is as set out in the table below. Not all of these stands could be used at the same time. Maximum Code E occupancy would be 8 Code E aircraft. There are more Code D centerlines available reflecting the nature of the fleet mainly operated at East Midlands today."

H	I	J	K	L	M	N	O	
Apron	Centrelines	Code B	Code C	Code D	Code E	Code F	Total CL's	
West (DHL)	Min CLs	0	6	6	5	2	19	
	Max CLs	2	5	10	2	2	21	
East	Min CLs	0	2	5	1	0	8	
	Max CLs	0	12	1	0	0	13	

Written Question OP.2.4

Scale and capacity

The Applicant's Written Summary of Case put Orally Need and Operation Hearing [submitted at DL5, reference not yet assigned] provides a justification for cargo terminal size for the proposal. This uses a ratio based on Prestwick initially, and then East Midlands latterly to derive the size required, resulting in around 65,000m². York Aviation [REP3-025] for Stone Hill Park use an IATA ratio based on processing capability (automation levels) and consider that the proposed cargo terminals are substantially oversized by an order of 3 times at least. York Aviation also note that cargo handling facilities at East Midlands have recently been expanded and so are unlikely to be at capacity and also that the airport operates as a hub for domestic road freight.

- i. **Provide further justification for the proposed quantum of cargo terminals deemed to be required, with reference to the York Aviation calculations.**
- ii. **How 'mechanised' would the terminals be, given the modern nature of the e-commerce integrators the proposal is seeking to attract?**
- iii. **Is East Midlands a suitable comparator given levels of possible road based freight at that airport?**

The Applicant's Response

- i. York state that East Midlands Airport ("EMA") handled "over 375,000 tonnes" of air cargo in 2018 where as the CAA have it as 334,536 tonnes; using York's assertion that the cargo foot print at EMA is some 80,000 sq m this suggests a ratio of 4.2 tonnes per sq m. The Applicant's forecast for Manston in year 20 is 340,000 tonnes with 65,000 sq m of warehousing implying a ratio of 5.2 tonnes per sq m. (24% higher than EMA). Less than 50% of the forecast tonnage at Manston will be eCommerce related. By comparison, according to the Steer Report of October 2018 "Integrators accounted for over 90% of freight at East Midlands". In summary, the Applicant forecasts a denser warehousing ratio than at East Midlands in

addition to a freight mix that would demand more warehouse space per tonne than at EMA. It is hard therefore to conclude that the warehousing planned for Manston is 3 times higher than that required unless one concludes that the warehousing at EMA is either only around 33% used or that the trucked freight take up twice the space of the air freight, which they do not.

- ii. eCommerce is in the very early stages of development so it is not straightforward to state how mechanised the facilities might be and it would really be a matter for the eCommerce operator and not the airport itself.
- iii. The comparison with EMA is valid. Road based freight is unlikely to be accommodated in warehousing that is airside as it will be more expensive than warehousing beyond the airport site. Equally, the Applicant has assumed that road based freight is unlikely to be material at Manston and it has not been factored into the forecast.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In this response, the Applicant wrongly asserts that road based freight is not a major factor at EMA (see York Aviation Report February 2019, para 6.23) [REP3-025]. In the response, the Applicant still does not set out any robust basis justifying the scale of facilities proposed. If there is to be no road based freight at Manston then this validates the need for the cargo handling facilities to be much smaller than East Midlands. The response does not address the IATA benchmarks for the scale of development required for efficient automated cargo centres in future (see York Aviation Report February 2019, paras 6.21-6.22)."

Written Question OP.2.5

Scale and capacity

The Applicant's Written Summary of Case put Orally Need and Operation Hearing [submitted at DL5, reference not yet assigned] contains a note on airport 'associated uses' for the Northern Grass site.

It concludes that it is difficult to find a close equivalent for the Manston/Northern Grass relationship in the UK and that attention is being turned to airports elsewhere for antecedents for an airport such as is being proposed at Manston. If this is of interest to the ExA, it is stated, then this will be reported on in time for Deadline 6.

Provide such evidence by Deadline 6.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

We would respectfully refer the ExA to the previous commitment the Applicant made in paragraph 18 of Annex 4 of the Revised NSIP Justification [REP1-006] to provide this information at DL3 (i.e. 15 February 2019).

"18. Having indicated the kind of occupiers that are likely to be attracted to the Northern Grass and their role in supporting the airport's operation, the Applicant will seek to provide to the ExA further examples of this type of airport-related development from other UK airports and important cargo led airports in Europe and North America. This additional evidence will be submitted by Deadline 3."

It is literally incredible position to be in where an Applicant is still unable to explain and justify the most basic elements of its development proposals on the Northern Grass area (which extend to well over 1 million square feet). We have referred to above the Applicant's previous (unfulfilled) commitment but would also highlight that is now over a year since the Applicant submitted its first Application, 9 months since it submitted its second Application and nearly 4 months since the start of the examination.

This information should have been included within the Application documents, and to the extent the ExA had further questions, the Applicant should be capable of providing an answer in real time rather than require months to go searching for an answer.

We note below additional commentary from York Aviation (please see Appendix 1) that deals specifically with the answer given by the Applicant;

"As noted in relation to the Draft DCO, many of the listed Associated Uses for the Northern Grass are not related at all to the principal development as they are passenger not cargo related or related to the maintenance/recycling of aircraft. In any event, the response provides no justification for the proposed scale (floor area) of these uses and why they are needed, e.g. how is an Aviation Academy in any way associated development related to a cargo airport and surely this would be more likely to be located at a local college.

Even in relation to those uses which are freight related, the largest of these is a Logistics Centre for the new integrator. Such a Logistics Centre would need airside access, as is the case with the DHL facility and the new UPS facility at East Midlands and so would not be able to locate on the Northern Grass. Manston is simply in the wrong location for a Fulfillment or Distribution Centre, which would necessarily need to be located closer to major urban areas and not on the Northern Grass.

The Applicant again seeks to justify the overall floor space requirement by reference to other airports (Appendices to OP.2.5 Response). However, when properly understood the comparisons are not supportive of its case. In Appendix OP.2.5, RSP start by stating that they aim to illustrate the relationship between 'airport associated development' and the requirement for the Northern Grass through comparison to 4 cargo airport examples. They then explain the method used to measure the floor spaces at the 4 airports which they caveat as being desk based only and 'approximate'. Whilst we do not attempt to question the accuracy of any of the areas measured, we would certainly question the inclusion of most of the areas as in any way relevant to the principal cargo related development.

As stated, the proposal for the Northern Grass is for an area of 105,100m² of floor space for B1/B2/B8 uses. It, therefore, makes no sense at all that the exercise as detailed by RPS catalogues/includes areas for the passenger terminals, cargo sheds, maintenance and parking hangars, airside facilities buildings within airside locations with direct access to the runways, as well as a wide variety of office and industrial buildings occupied by businesses that clearly have nothing at all to do with aviation.

If you take East Midlands as an example, the total floor area stated by RPS is 194,615m². However, if you remove all the front line cargo sheds from the total (as they are airside facing and could not be provided in a landside area like the Northern Grass), the passenger terminal and the airside maintenance hangars and buildings, you remove approximately 72% from the total area. If you then remove all the passenger related hotels and businesses that have no aviation links such as Price Waterhouse Coopers, Medstrom Healthcare and Western Power Distribution then you come down to an area of around 25,750m², which is only 13% of RSP's stated total. If you take out all of the 'unknown' business space then you are left with just under 15,500m² which is only 8% of the total area quoted or just over 15% of the area proposed for the Northern Grass.

The same approach to including all areas has been taken in the other comparator examples where the passenger terminal, front line cargo shed and airside hangars etc have been included in the totals. None of these functions bear any relevance to the question of 'Associated Development' in the context of a landside business park for B1/B2/B8 uses directly related to the purpose of the principal development at Manston. To highlight the absurdity of the approach used by RPP, the Liege example includes an area of 4,360m² comprised of a poultry farm. Clearly, this is not remotely relevant to the comparison of areas devoted to equivalent uses to those that might be permitted on the Northern Grass.

At no point does this exercise seek to actually explain how any of these areas compare to their proposal for the Northern Grass. It is merely an exercise in documenting the various areas of all the buildings located within the general bounds of 4 cargo dominated airports."

Written Question OP.2.6

At the Need and Operations Hearing (21/03/19) it was confirmed by the applicant that they have programmed to start the construction of the Airport in 2021, with operations beginning from quarter 1 of 2022, and that circa £180million would be spend on construction in this calendar year. At the Noise hearing (22/03/19) it was confirmed that no construction works would take place at night.

- i. Is the ExA's understanding of this programme correct?**
- ii. Comment on how the revised start date of operations affects the provided forecasts contained within the Azimuth Report [APP-085].**
- iii. Define the night time period for the proposed construction works restriction.**
- iv. Does the period of the night-time restriction include such operations as machinery start up and construction deliveries?**
- v. Provide a likely construction programme for 2021, bearing in mind the proposed lack of night works and allowing for operations in 2022.**

The Applicant's Response

- i. Yes, that understanding is correct.
- ii. The original timetable envisaged operations beginning in Q4 2020. The current timetable envisages operations beginning in Q1 2022. In an infrastructure project of this scale, variations in the programme are inevitable. This slight delay does not affect the forecasts within the Azimuth Report. The prevailing climate pertaining to air freight has not materially altered in that the details of the UK's withdrawal from the EU (Brexit) have still not been finalised, the demand for ecommerce remains strong (with East Midlands Airport also preparing for increased volumes driven by the e-commerce boom (see <https://www.aircargonews.net/cargo-airport/east-midlands-airport-expands-space-for-freighters/>), the UK's airport capacity constraints persist, and the third runway at Heathrow has yet to commence construction.
- iii. The night-time period for proposed construction works restriction will be from 11pm to 7am.
- iv. No construction activities would be allowed during this period and as such the night time restriction will forbid machinery startup. Limited HGV movements have been included in the noise and air quality assessments and the Construction Traffic Management Plan (CTMP) during the night-time period in Phase 1 of the proposed development in order to allow for construction deliveries. However it is expected that these would be strictly controlled via the necessary Section 61 Agreement and the final CTMP that will be agreed following the DCO being made.
- v. A construction programme is provided at Appendix OP.2.6. We estimate a design and construction period in phase 1 (i.e. to bring the airport into operation), of approximately 2 years in total giving an operational date of end Q1 2022.

SHP Comments on the Applicant's Response

- i. For the reasons explained in paragraphs 9.1 – 9.5 of SHP's Written Summary of Oral Submissions put at the Need and Operation Hearing [REP5-029], the operational date of Q1 2022 is not credible. We also note that the Applicant continues to ignore / gloss over the numerous additional impediments, including the CAA Aerodrome Certification (see comments on OP.2.1), Airspace Change Process (OP.2.2) and HRDF Beacon (see comment below) that would push back the date by which an airport could be operational.

- ii. The Applicant seeks to argue that any delay in the timetable will have no impact on the forecasts. As the forecasts are no more than a “guesstimate” of potential demand, and show exactly the same ATMS and freight tonnage forecasts as the version of the forecasts first published by the Applicant in 2017, it is not surprising that the Applicant cannot even start to consider how the forecasts would be affected.
- v. SHP would respectfully refer the ExA to paragraphs 9.1 – 9.5 of SHP’s Written Summary of Oral Submissions put at the Need and Operation Hearing [REP5-029] reference to be allocated], which clearly demonstrate the Applicant’s revised forecast date for operations (Q1 2022) lacks any credibility.

Appendix NOPS.11.1 referred to in paragraph 9.5 provides a more realistic timetable that shows, on a best case basis an airport could not be open before late 2024. As explained in the Appendix, this programme ignores any potential delays caused by funding issues, additional groundworks and /or planning variations as a result of survey work, any construction issues or other impediments such as CAA Airspace Change or Certification processes and /or other material issues such as DIO HRDF Beacon relocation.

On the basis the Applicant continues to minimise and gloss over material issues in relation to the HRDF Beacon, we have provided a brief overview below. This demonstrates that the issue is both a material impediment to the implementation of the Applicant’s scheme, and terminal to its aspiration of having an operational airport by Q1 2022.

- There are restrictions on development around the HRDF Beacon, which prevent any development within a 120 metre radius. Thereafter, a 1 in 25 slope is safeguarded.
- Therefore, the failure to relocate the HRDF Beacon would make the implementation of masterplan proposed by the Applicant impossible due to development being located within the safeguarded zone.
- For example, Works No. 1 (airside cargo facilities with a building height of up to 20m) could not be located within 620m of the HRDF beacon (i.e. 120m + (25 x 20m)). Based on the Applicant’s Masterplan [APP-079], all the proposed Works No. 1 buildings appear to be located within a safeguarded area.
- At the CA Hearing held on 20 March 2019, Mr Boulton for the DIO was asked by Mr MacDonald of the ExA to confirm whether there would be a need for a period of overlap, where both the existing and new HRDF Beacons would be required. Mr Boulton confirmed that a period of 2 years has been mentioned in discussions with the Applicant to ensure that the operational capability of the new site is as good as the old site. This specific interaction is available to review at 1 hour 20 minutes and 40 seconds of recording 2 of the CA Hearing.
- As a consequence, construction of Works No. 1 (within the current safeguarding area) would not commence until 2 years AFTER the new HRDF Beacon is in place and operational.
- Assuming that there is a 12 month construction period for Works No. 1 (i.e. a start date of Q1 2021) and the DIO maintains its position on the required “overlap”, the new HRDF Beacon would need to have been operational in Q1 2019. Otherwise, the Applicant’s programme is not achievable even ignoring all the other issues with the Applicant’s proposals.

- Placing the issue of an appropriate location to one side (and the acquisition of the relevant land interest), the relocation of the HRDF Beacon would also require a separate planning application. This would require public consultation (including in relation to any new safeguarding cones that are required). Even assuming all these issues could be addressed, it is not clear how a new Beacon could be operational before the latter part of 2020, resulting in an 18 month+ delay.
- We note that the ExA has asked a further question of the Applicant (CA.3.6) and await the Applicant's response.

Written Question OP.2.7

Public Safety Zones

At the need and operations Issue Specific Hearing (21 March 2019) it was confirmed that general aviation movements would be counted in the number of flights required before public safety zones are designated. An indicative drawing has been produced.

i. Bearing in mind this answer, at what year of operation would you expect PSZ's to be required at Manston?

ii. Has this been taken account of in the Environmental Statement?

iii. Has the PSZ drawing taken account of the forecasts, or is it mainly based on the PSZs at other airports?

The Applicant's Response

- Guidance does not set an Air Transport Movement (ATM) limit above which a PSZ should be introduced, but generally if ATMs exceed 1,500 per month (18,000 per year) and are expected to exceed 2,500 per month (30,000 per year), then one is likely to need to be introduced. The Applicant's forecast is for 26,468 ATMs by year 20 and 5,840 general aviation movements (which are not technically ATMs but still affect the decision to create a PSZ), and the Noise Mitigation Plan contains a cap of 26,468 ATMs and 38,000 general aviation movements. It is therefore unlikely that a PSZ may need to be introduced before year 15; but possible by year 20.
- Although the PSZ does not form part of the DCO application and would need to be implemented by Thanet District Council following a recommendation from the DfT and in consultation with the CAA, an addendum to the ES has been produced that discusses the likely effects of such a declaration. This document has been included at Appendix OP.2.7.
- The PSZ drawing is based upon PSZ's at other airports and is not related to the forecasts for the development. It should be noted that the PSZ drawing at Appendix 8 of [REP5-024](#) are indicative. There are a range of factors which influence the size and shape of the PSZ, such as aircraft types operated, number of movements for each type and worldwide accident data. By the time Manston is predicted to have crossed the current threshold, regulations on PSZ could have changed, Manston operational data will be available and worldwide aviation safety will have changed (in all likelihood improved); all these factors could influence the size of any PSZ (if still required).

SHP Comments on the Applicant's Response

SHP consider the Applicant's answers to be a clear demonstration of its unreasonable behaviour, which is requiring SHP to incur wasted and unnecessary expense in being forced to providing evidence to the examination to counter the Applicant's assertions.

- i. The Applicant's comment that "[i]t is therefore unlikely that a PSZ may need to be introduced before year 15; but possible by year 20" shows a lack of understanding of the requirements for PSZs.

SHP has provided detailed submissions on this matter including;

- SHP's comments on the Applicant's responses to Examining Authorities Written Questions OP.1.7 and OP.1.8 [REP4-067];
- SHP's Written Summary of oral submissions put at the Need and Operations Hearing [REP5-029];
- SHP's response to the ExA's second written questions [REP6-053].

In summary, these submissions explained that PSZs would be required to be put in place just after the third year of operations (i.e. Year 4 of the forecasts). This is shown in the table below, which is based on the Applicant's forecasts (including the 5,840 general aviation movement).

RSP Forecasts	Cargo ATMs	Passenger ATMS	Other ATMs	Total ATMs	ATMs / Month
Year 1	-	-		-	-
Year 2	5,252	-	5,840	11,092	924
Year 3	5,8104	4,932	5,840	16,576	1,381
Year 4	9,700	5,024	5,840	20,564	1,714
Year 5	9,936	5,064	5,840	20,840	1,737
Year 16	14,678	8,160	5,840	28,678	2,390
Year 17	15,265	8,428	5,840	29,533	2,461

It is clear that the Applicant is forecasting to exceed 1,500 movements per month (including general aviation movements by the middle of year 4 (the 3rd year of operations). It is also clear that the Applicant is forecasting that it will exceed 2,500 movements per month by year 18.

Therefore, based on paragraph 3 of the relevant Guidance which states that "[T]he Public Safety Zones are based upon risk contours modelled looking fifteen years ahead, in order to allow a reasonable period of stability after their introduction" PSZs will need to be applied from year 4 of the Applicant's forecasts (or very soon thereafter).

Whilst the Applicant accepts that "if ATMs exceed 1,500 per month (18,000 per year) and are expected to exceed 2,500 per month (30,000 per year), then one is likely to need to be introduced", the Applicant bizarrely then asserts that the PSZs

Year 18	15,875	8,707	5,840	30,422	2,535	<p>will actually only need to be applied 15 years later. This is patently ridiculous given the clarity in the Guidance that PSZs are based on forward looking forecasts.</p> <p>It is apparent that the Applicant has had not sought advice from the relevant bodies. Had it done so (as SHP did), then it would have known the correct interpretation of PSZs policy.</p>
Year 19	16,510	8,997	5,840	31,347	2,612	
Year 20	17,171	9,289	5,840	32,300	2,692	

SHP has appended email correspondence from the Department of Transport confirming the policy position as Appendix OP.2.7(i), an extract of which is given below;

“You are correct to note that Public Safety Zones are based upon risk contours modelled looking fifteen years ahead and are generally re-modelled every seven years or so, and that PSZs will be redefined if a runway is extended or if a landing threshold is moved.

As a matter of policy, the Department for Transport applies Public Safety Zones at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements. I am therefore happy to confirm that this is the criteria for assessing the requirement for PSZs for new and enlarged airports.”

This is not a difficult or a grey area and it is incomprehensible that Applicant continues to misrepresent the position.

- ii. SHP would note that the effects of PSZs were not considered or assessed at all in the Environmental Statement, despite representations from SHP at the consultation stage.

SHP would also note that the addendum to the ES submitted by the Applicant at DL6 is infected by the same basic misunderstanding that PSZs are based on forecasts 15 years ahead but that PSZs are not applied until the end of that 15 year forecast period. This is nonsensical.

The ES is indicative only and does not reflect the PSZ requirements that would be specific to Manston, given its proximity to population centres and the increased accident rates of cargo aircraft. The addendum to the ES does at least explain some of the significant implications that would result from the introduction of PSZs.

- iii. As the Applicant has accepted the PSZ drawing submitted at DL5 showing a 1 in 10,000 risk contour is indicative only. As SHP noted in its answer to this question [REP6-053], the 1 in 100,000 PSZ contour would extend much further based on the comparison to the airports identified by the Applicant. Whilst detailed modelling would be required to assess the 100,000 PSZ risk contour, at a minimum it would be expected to extend at least 2.5km from the end of the runway and would therefore cover a large part of Ramsgate, with consequences for those living there.

Written Question SE.2.2

Employment – Comparators

Volume 4 of the Azimuth Report [APP-085] uses East Midlands Airport (EMA) as a comparator for direct job levels, with a 2% adjustment used from yr 11.

- i. Do the figures used from EMA include jobs across that airport site, including those based at the Pegasus Business Park?
- ii. If so, given evidence that much of the business park constitutes non-airport related development and employment, how useful are such employment figures for comparison purposes?
- iii. Of the employment figures for EMA, what percentage are within the aviation industry?
- iv. Provide justification for the 2% adjustment from year 11. Would the opposite not be true, given economies of scale once operations became established?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In relation to employment, the Applicant continues to rely on out of date general ratios for employment density and, in any event, these relate to averages over the whole of Europe, including the major hub airports with major airlines headquartered at them so driving up employment density. This is simply not a relevant basis for a dedicated cargo/low cost airport where employment densities would be significantly lower. The response does not address the ExA's points about the structure of employment at East Midlands Airport specifically.

In terms of the location of employees, it is not correct to say that employees at East Midlands Airport live locally to the Airport.

The East Midlands Airport Sustainable Development Plan states that 89% of employees live within the neighbouring 3 counties <https://live-webadmin-media.s3.amazonaws.com/media/2931/ema-sdp-2015-economy-and-surface-access.pdf>. This is quite a wide area covering Derbyshire, Leicestershire and Nottinghamshire, some 85% larger than the total area of Kent and 67 times the area of Thanet. Hence, on a comparative basis, it is reasonable to expect that the catchment area for employment at Manston would not be localised in the manner asserted by the Applicant.

We note that the Applicant has made some attempt to adopt our recommendations regarding the inclusion of a productivity factor (see York Aviation Report February 2019, paras. 3.53-3.54) [REP3-025]. However, this is meaningless if the initial employment density has been set too high. Our comments on the validity of the socio-economic assessment need to be seen in the round and not ‘cherry picked’ as the Applicant seeks to do.”

Written Question SE.2.4

Employment – Comparators

Evidence submitted by Stone Hill Park [including REP4-067] states that Glasgow Prestwick would be a more appropriate comparator airport for direct jobs numbers, given the use, size and employment sectors of that airport.

- i. Do you agree with this viewpoint? If not, justify given the usage and mix of freight and passenger traffic at East Midlands and Glasgow Prestwick.
- ii. If so, how would this affect your predicted job numbers?

The Applicant’s Response

Please refer to the Applicant’s answer as set out in REP6-012.

SHP Comments on the Applicant’s Response

Comments extracted from York Aviation note (see Appendix 1):

“We note that the Applicant seeks to rebut our adoption of Prestwick as a relevant benchmark for employment at Manston. We still consider Prestwick to be the appropriate benchmark for employment density (jobs per workload unit) at 650. If they wish to use East Midlands as a benchmark, it is essential that the jobs related specifically to the relevant activity only (cargo handling, passenger processing and aircraft maintenance) are included, i.e. excluding non-airport related jobs that are located in the vicinity of the Airport, e.g. Pegasus Business Park. As made clear at paras 3.53-3.54 of York Aviation’s February 2019 Report, the aviation related employment density at East Midlands is substantially lower than 887 jobs per workload unit. To the extent that operations at Manston are more highly automated than at East Midlands, as is claimed by the Applicant, the relevant employment density would be proportionately lower still.”

Written Question SE.2.6

Employment

Thanet DC [REP3-010] consider that there remains significant uncertainty about whether the socio-economic benefits from the proposal, in terms of job creation, attract significant weight in support of the proposal and consider that such benefits may have been potentially overstated in the ES. It notes that

the figures predicted for year 20 would represent 8.3% of all jobs in Thanet and consider that the magnitude of change for the number of jobs created needs to be reassessed against the total number of jobs in the District to reflect the actual impact on employment, with such an effect potentially not falling within the category of 'major beneficial - significance'

Provide any evidenced counter arguments to this viewpoint.

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"As noted above, the job numbers in Thanet have been substantially overstated due to inaccurate assessments of direct local employment as distinct from in-commuting and also through the application of national rather than local level indirect/induced multipliers (see York Aviation Report November 2017, para. 5.6) [REP3-025]."

Written Question SE.2.7

Employment – Detailed figures

Appendix SE1.5 of [REP3-187] gives detailed job figures for year 20 of operation. This includes 507 posts for employees for freight for the airport operator, with a further 1,250 employed in the cargo sheds (not by the airport operator), 600 jobs in the MRO facility, 50 staff in General Aviation and 40 in Fixed base operations and helipads, as well as 50 surface access staff. York Aviation on behalf of Stone Hill Park [REP4-065] note that 600 employees in MRO/aircraft dismantling appears excessive and cite the demise of the Monarch Engineering heavy maintenance operation which employed 250 staff at Luton and Birmingham

- i. Provide an indication or further breakdown of where or what positions the 507 and 1,250 cargo/freight staff would do.
- ii. Provide justification for the 600 MRO staff.
- iii. What positions would you expect the 50 GA staff to fill?
- iv. What roles would 50 surface access staff fill at the airport?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"It is unclear why there would be 4 shifts of handling staff when the Airport is shut at night and the normal pattern is 3 shifts even where an airport is a 24 hour operation.

There are no precedents stated for the assumed levels of employment in MRO activity. Based on information available elsewhere, the assumption of 600 staff employed in aircraft recycling is heroic. The ExA should ask for evidence as to the justification for this figure. By way of comparison, Monarch Engineering, prior to going into administration, employed 553 staff operating large hangars and substantial aircraft maintenance across 3 large airports. Air Salvage International at Cotswold Airport, which has facilities for between 20 and 50 aircraft to be dismantled at any one time employs only 40 staff - <http://airsalvage.co.uk/asi-celebrates-its-20th-anniversary-milestone/>.

We note that the figures for staff bussing appear to be based on a 3 not a 4 shift system which is inconsistent. In any event, why would 14 drivers per shift be required just for staff bussing. This begs the question as to whether the costs of these staff and the busses been factored into the operational costs within the business model."

Written Question SE.2.8

Catalytic jobs

The calculation of catalytic job figures use an ICAO formula, which appears to be a national figure, but is applied at a local level.

- i. Do you consider that the nationally based multipliers used for induced and catalytic job totals are appropriate within the local context of Manston, and if so, why?
- ii. If so, how would this affect your predicted job numbers?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"If national figures are used as the basis of the employment estimates, including indirect and induced employment, displacement effects from other airports need to be taken into account. It is vitally important for there to be clarity on the geographies used in the assessment to ensure that employment and economic effects are not overstated."

Written Question SE.2.9

Displacement

Your answer to SE1.6 [REP3-195] considered that, as the proposal will currently meet unmet demand rather than displacing existing business from other airports that no account of job transfers or losses from other areas has been incorporated into the assessment.

However, the Azimuth report [APP-085] states that consideration of costs of switching airlines/forwarders has been taken into account, which implies that some demand would have been displaced from elsewhere. Furthermore, the answer to SE1.1 states that significant effects on outbound tourism are not anticipated as existing connections, including Gatwick, Heathrow, and London City Airports, Ebbsfleet International for trains to the continent and cross channel ferry via Dover already exist. This also implies that outbound tourism business may be displaced from other existing areas, both within the South East, and within Kent itself.

Do you maintain the view that the proposal would solely meet unmet demand, and if so, do you have further justification for this viewpoint?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In this response, the Applicant tries to argue that there will be no displacement of activity as jobs lost will be backfilled by other jobs. What is the evidence for this? The ExA's question as to whether the development would solely be to handle unmet demand is simply not addressed. As the evidence makes clear, demand is being met currently but by other airports and by trucking. Hence, there is displacement of activity from somewhere and certainly displacement of growth at a national level. Clawback of trucked activity is shown in the Northpoint model to reach between 125,000 and 600,000 tonnes in year 20 so citing 1st year of operation figures for displacement from trucking is disingenuous. No explanation is given as to why this trucking would be intercepted and fly from Manston in any event."

Written Question SE.2.12

Tourism

Paragraph 13.8.77 of Chapter 13, Volume 2 of the ES [APP-034] states that Thanet has approximately 3.1 million visitors annually, of which 75% are day visitors, meaning the remaining 775,000 individuals are overnight stay visitors. The ES further notes that anticipated passenger numbers associated with the proposal are around 1.4million in Year 20 and considers that this additional flux of people, if assumed to all be overnight stays results in a net increase of 81.6% compared to current annual tourist visitors, with 25% of visitors as overnight stays providing a potential for net increase of approximately 45.4% (paragraph 13.8.78).

- i. **1.4 million passengers per annum equates roughly to around 700,000 passengers each way (if assuming passengers will generally use the same airport for inbound and outbound flights). Do you consider passengers are likely to stay overnight in Thanet before and after their outbound and return flight?**
- ii. **Would it be fair to assume that many outbound passengers would be resident within the local area and so would have no need to stay overnight?**
- iii. **Do you consider therefore the figures within the ES are likely to be accurate?**

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"This response speculates that older visitors are more likely to stay overnight prior to flying from an airport. There is no actual evidence that this is so. The use of Dubai as a comparator for the tourism industry is self evidently absurd.

The ExA's questions about the catchment are for passengers and the likelihood of them staying overnight locally is simply not addressed. No evidence is provided as to the extent to which the listed hotels in the vicinity of Southend Airport are actually used by air passengers as distinct from more general visitors to the Southend area who chose to use new rather than older hotels."

Written Question SE.2.15

Tourism

What percentage of inbound passengers do you consider would be likely to constitute tourist, and which areas/cities would they come from?

The Applicant's Response

Please refer to the Applicant's answer as set out in REP6-012.

SHP Comments on the Applicant's Response

Comments extracted from York Aviation note (see Appendix 1):

"In this response, the Applicant first of all uses average data from all UK airports (including Heathrow) as a basis for its estimate of potential inbound tourist numbers that might use Manston and then concedes that data for smaller airports might be more relevant. It is somewhat misleading, therefore that it includes Gatwick, Stansted and Luton in its list of smaller airports, handling 45.9 mppa, 25.9 mppa and 16 mppa respectively in 2017."

APPENDICES

Appendix 1.....York Aviation’s supplemental note on the Applicant’s Answers to Second Written Questions
OP.2.7(i).....Correspondence with Department for Transport regarding Public Safety Zones



Manston Airport NSIP

Comments on Applicant's Deadline 6 Responses to Second Questions from the Examining Authority

Introduction

As with other submissions made by the Applicant, we note that the answers given are in places inconsistent and contradictory and this serves to undermine their credibility and to cast further doubt upon the overall robustness of the need case. Many of the responses simply repeat material already submitted and do not provide the further requested clarification nor, in some cases, respond to the question put.

We comment here on points of relevance to the need case and the forecasts of usage for the development that underpin the entire NSIP Justification, including the assessment of socio-economic impacts. We have referenced our answers to the ExA's question number but do not repeat in full the question and answer given. We cross refer as required to the York Aviation 2017 Report, the 2019 Update Report (appendix 4 of REP3-025), our previous comments on the Applicant's Deadline 3 Responses [REP4-065] and submissions made following the Compulsory Acquisition and Need and Operations Hearing as required where points have already been addressed in our evidence. Where we have nothing to add to our previous analysis, we do not comment on the specific question and answer.

Question	Commentary
Draft DCO	<p>A definition of 'airport related' development is now provided. This does not appear to adhere to the principles set out in the Planning Act 2008 (Guidance on associated development applications for major projects). This guidance requires that associated development should be directly related to the principal development, supporting either its construction or operation and of a proportionate scale not merely to provide a cross subsidy to the cost and operation of the principal development.</p> <p>The definition provided by the Applicant includes uses related to passenger aircraft operations, business/general aviation and aircraft maintenance/recycling, none of which are directly related to the principal development, namely the alteration of an airport to increase by at least 10,000 a year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services. Hence, of those uses covered by the proposed 'airport related' definition, applicable to the Northern Grass, the following cannot be considered as directly related to the principal development, namely <i>"flight catering, car hire activities, maintenance and valeting operations, support functions for aircraft maintenance business aviation facilities"</i>. Furthermore, for <i>"airline training centres, airline</i></p>

	<p><i>computer centres, security facilities ... and storage facilities for airlines” to meet the test they would need to be clearly demonstrably related to cargo airline activity.</i></p> <p>It is not appropriate, in the context of the associated development test to construe the definition of ‘airport-related’ more widely, as the Applicant seeks to do, to include all activities <i>“related to, or associated with, or supportive of operations at Manston Airport”</i> as it is not the entirety of the operation of Manston Airport that constitutes the principal development. Indeed, the development of the passenger terminal and the maintenance/recycling hangars are themselves designated as Associated Development in Schedule 1 to the Draft DCO (as indeed should the general aviation hangars/FBO at Work No. 2 and the apron associated with the maintenance recycling hangars at Works No. 10 and 11 as neither of these are part of the cargo operation forming the principal development). By definition, then, activities associated with passenger terminal operations and maintenance operations cannot be associated development and should be excluded from the airport related definition in this case. It would be normal practice for an airport related definition to also include some requirement for an operational linkage between the development proposed and the actual operation of the airport. The use of the term supportive or associated with could imply acceptance of any development providing, inter alia, financial cross subsidy to the operation of the principal development.</p>
AQ.2.1	<p>The aircraft types, PA28 and PA34, used in the noise and air quality assessment as representative general and business aviation aircraft types are not representative of the full range of aircraft that could be operated for business aviation purposes if an FBO is provided as claimed by the Applicant. It would be expected that at least some proportion of the 38,000 general aviation movements assessed for the EIA would be operated with small jet aircraft leading to higher emissions and higher noise. This is yet another example of where the environmental assessment has not considered a worst case.</p>
CA.2.18	<p>See answer above regarding the inadequacy of the proposed definition of ‘airport related’ in the context of the DCO principal development.</p>
CA.2.19	<p>The Applicant’s response fails to address the extent to which the proposed development on the Northern Grass is likely and/or intended to provide a cross subsidy to the principal development. If there was a need for such uses to support the operation of Manston Airport, for which we can find no supporting evidenced based on airport operations elsewhere (see comments on the answer to OP.2.5), the suggestion that such facilities would need to be located elsewhere on an unplanned basis is simply not relevant. The Applicant has failed to substantiate the need for the proposed quantum of development on the Northern Grass. The answer given is nothing more than obfuscation.</p>
DCO.2.10	<p>As noted above, the Act requires associated development to be directly related to the principal development. It is not sufficient for such development to be merely <i>“associated”</i> with the principal development.</p>
DCO.2.44	<p>The Applicant here presents a different definition of associated development stating that support in this context means: <i>“to have its ordinary meaning of ‘strengthen, maintain’ (Collins), i.e. the facilities provided by those works would, together with the airside facilities, provide a more complete service for the airport’s cargo customers.</i></p> <p><i>ii. By supporting works that are a nationally significant infrastructure project concerning aviation, this wording would ensure that they were for aviation purposes (although note that the word ‘required’ does not appear in the guidance). To make doubly sure, however, each work is additionally required to be ‘aviation-related’.”</i></p> <p>As noted above, in relation to the Draft DCO, the exemplar uses given in the proposed definition of aviation related include uses totally unrelated to providing <i>“a more complete service for the airport’s cargo customers”</i>. Given the clear requirement for associated development</p>

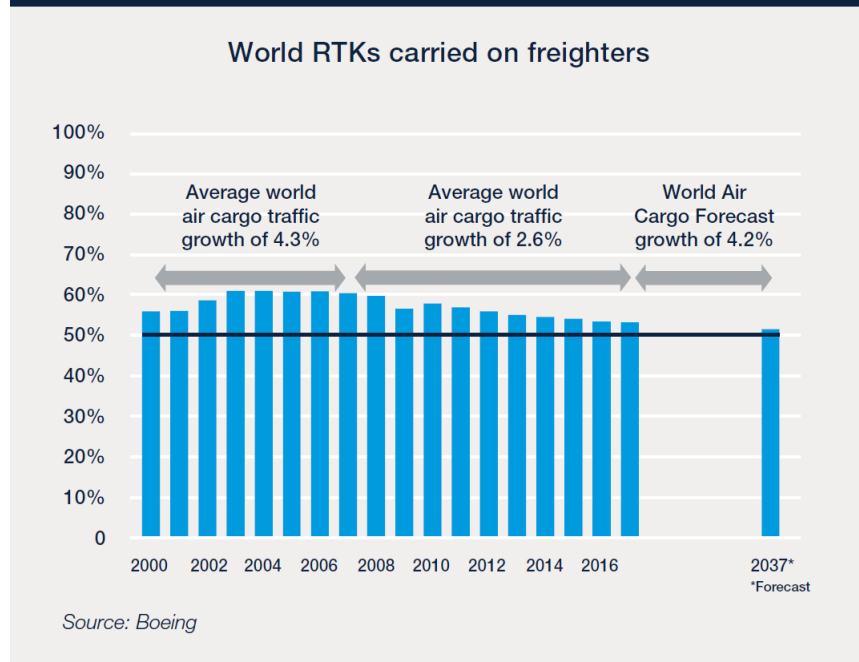
	to be directly related to the operation of the principal (in this case cargo) development, it is important that there is absolute clarity in the DCO as to the appropriate test and its applicability.
ND.2.1	<p>The Applicant continues to claim that Vol II of the Azimuth Reports <i>“is an evidence based assessment of likely levels of cargo and passenger traffic at Manston”</i>. This is patently nonsense as was made clear at the Oral Hearing on Need and Operations, where Dr Dixon conceded that she had provided a general assessment of the scale of the market that Manston might attract rather than a specific forecast of what it would attract when considerations of cost and viability are properly taken into account. In this answer, the Applicant seeks to construe that commercial viability is considered independently of Azimuth forecast, which may be true in relation to the viability to the Applicant in its own business model (albeit this is not what is stated in the Application Documents – see York Aviation Report February 2019, para. 7.3). However, a forecast of the use of an airport cannot be made without giving consideration to the relative price to users. Usage is not independent of cost, as indeed Northpoint acknowledge in their report submitted at Deadline 4 at para. 67. Price is vital to understanding the extent to which any capacity provided might actually be used in practice. Given the Applicant’s stated intention to be a ‘price setter’ and the high level of charge per movement or per tonne indicated in the ‘business model’ spreadsheet submitted, applying these to the likelihood of the capacity being taken up or, in other words, the forecasts being realised, is essential.</p>
ND.2.2	<p>We note that the ExA asked for evidence on <i>“interviews and conversations with other experts and industry figures”</i> carried out by the Applicant and their <i>“conclusions relating to the proposed scheme”</i>. It is extraordinary that there are only 3 examples cited in response, none of which are leading cargo industry experts.</p> <p>First of all, an invitation to attend the London Infrastructure Summit is nothing more than an invitation to send a delegate to a conference. There is no evidence that RSP has been invited to speak at the Summit, nor the extent to which the proposed development at Manston is supported by London First or other sponsors of the Summit.</p> <p>The second company/organisation cited, BAS international, are a broker leasing aircraft for business aviation use. They are not a player, major or otherwise, in the international airfreight sector. Any comments made by them will relate solely to slot constraints for business aviation activities at the main London airports and are not relevant to the position for freighters.</p> <p>The third company, Sound Moves, operate a niche business for moving music equipment and staging. At best, this would be a limited operation with a handful of flights a year. By way of example, they are stated as currently using Doncaster Sheffield Airport for their operations (Answer ND.2.5). Total cargo ATMs at Doncaster in 2018 were less than 150 according to CAA Airport Statistics, of which Sound Moves will not account for all of the movements. This would represent a very small niche operation.</p> <p>In total, this response provides no evidence of an ongoing dialogue with any of the users which it is claimed by the Applicant might use Manston for cargo operations. In order for the Applicant’s forecasts to be realised, it would be necessary for an operator of dedicated cargo flights on a substantial scale to be attracted. There is absolutely no evidence that the Applicant is actually engaged in any sort of dialogue with such operators.</p>
ND.2.3	<p>This response by the Applicant ignores nature of fish and shellfish trade. Somewhat misleadingly, the Applicant cites figures for total export volumes related to seafood. This includes exports in refrigerated ships to countries such as Ireland, France and Spain which are 3 of the 4 top markets and, self evidently, most likely to be served by refrigerated ships or trucks. As is made clear in the Steer Report for Airlines UK (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, para. 20) [REP5-</p>

	<p>031], export of salmon products makes up a substantial portion of the trade and this is distributed globally using bellyhold capacity available from Heathrow, with the US being a large market related to its place in the top 4 export markets for fish from the UK.</p> <p>In any event, it is far from clear how 1 flight a week (for 26 weeks of the year) would meet the requirements of this trade and would offer any practical time advantage such as to justify the use of air freight rather than sea or truck.</p> <p>Other niche markets related to race horses, F1 and rock bands are cited as potential for Manston. However, it is far from clear how the suggestion of 2 based aircraft operating 4 flights a week would be viable for an airline. Furthermore, there is no evidence of this scale of demand for such niche markets. The comment made that Manston may only receive part loads on such aircraft strongly suggests, in any event, that any such operations would not be by aircraft based at Manston. Furthermore, as has previously been pointed out at the Hearings, other airports such as Stansted and Doncaster are better located in relation to much of the horse racing trade and East Midlands would be the best located airport for F1 operations which are to a large extent centred in the East Midlands Region in the vicinity of Silverstone.</p> <p>The claim that such services might use Manston relies, once again, on the unsubstantiated assertion that MAG will seek to displace such freighter activity from Stansted. Even if that was the case, which we do not believe, for such niche air cargo operations, it is hard to see how 1 or 2 flights a week by such activity would justify the investment of £186 million necessary to reopen Manston as a cargo airport in the first instance.</p>
ND.2.4	<p>The Applicant again provides secondary data about export and import markets. This response is not supported by any analysis of what commodities would use Manston or why. On what basis is it considered realistic that Manston would obtain a 6% share of import tonnage and 14% share of export tonnage to/from the UK's top 15 Non-EU trading partners. No explanation is provided as to what would drive a preference by exporters to use Manston. All the response does is to take the Azimuth forecast as a given and then describe the consequences. This provides no evidence as to the likelihood of it being achievable.</p>
ND.2.5	<p>This response simply repeats thesis of congestion at other airports, which we dispute (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 – ND.1.13, ND.1.15, ND.1.16, ND.1.18) and that Manston will be state of the art, meaning that it will attract operators away from these other airports (i.e. displacement of activity). This appears to ignore investment in new state of the art cargo handling facilities at East Midlands and Heathrow, in particular the developments underway at both locations by SEGRO.</p> <p>This response also contains the extraordinary claim that Manston would offer a “<i>value for money proposition</i>”, despite the fact that the business model shows the costs of using the facility to be between 3 and 6 times the charges levied at other airports (see York Aviation Report February 2019, para. 7.36). There is no evidence that other airports would not provide facilities for “<i>refrigerated storage and outsized freight</i>” if there was a business case for doing so.</p> <p>The response goes onto say that automation would have no effect on predicted job numbers. However, on the one hand the Applicant claims airports like East Midlands are not operating state of the art facilities employing the latest technology, on the other hand it persists in wrongly applying the overall employment density (jobs per workload unit including non-aviation jobs) for East Midlands as the basis for its employment projections (see further comments on answers to SE.2.2 and SE.2.4 below). This is contradictory and inconsistent.</p>

ND.2.6	<p>The tonnage per movement set out in the Azimuth report is reflective of the erroneous fleet mix, including a substantial number of ATR72 turboprop aircraft necessarily carrying a limited load. The explanation provided by the Applicant in this response is simply illogical. If the intention is for the e-commerce integrator to be supplying product to fulfilment centres in the UK, why would outbound flights by larger aircraft carry 100% load and inbound flights 20%. Nor does it make sense for the small feeder flights to carry 100% inbound as this would imply that Manston would be functioning as a hub operation with product shipped in on small aircraft to be shipped out again on larger aircraft. This does not fit with the business model otherwise described by the Applicant or its attempt at a justification as to why such an e-commerce integrator would locate at Manston. The whole story of the role of e-commerce is illogical. To the extent that there is a market for this type of activity, it is to bring product to the UK for UK-wide distribution. Any hub would logically be located near the centre for production of the goods within the UK, to the extent to which there are UK goods for export, and be far more likely to be in the Midlands for the distribution of inbound goods and not at Manston.</p>
ND.2.7	<p>It is notable that the Applicant is unable to identify any research or data which disputes our analysis of the order of cost difference between dedicated freighter operations and bellyhold freight (York Aviation Report February 2019, para. 4.7) [REP3-025] but, nonetheless says it continues to dispute the estimated order of magnitude of the cost difference. It is simply not credible for the Applicant to say that the cost difference is not relevant to RSP's business model as there will be other reasons why dedicated freighter aircraft will be used. This may be true for niche specialist cargos but does not apply to the bulk of general cargo. It is this latter cargo which makes up most of the trucking operations, the interception of which Northpoint rely on to justify its version of the tonnage forecasts for Manston (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 37 and 38) [REP5-031]. All the evidence points to cost efficiency being a significant factor in the decision as to how cargo is moved, particularly for trucked freight upon which the Applicant continues to rely in this response.</p> <p>In the light of the business model information provided by the Applicant, it is not credible to claim that Manston would offer "a strong value for money proposition". To the extent that asserted time savings are a factor due to lack of congestion, the Applicant offers no quantification of the value of these time savings to cargo shippers, taking into account access times from the origin/destination of the goods, which could be offset against the higher charges it proposes to levy.</p>
ND.2.8	<p>Whilst faster growth of freight activity at East Midlands Airport may not be reflective of a stronger regional economic performance, it is reflective of the emergence of a 'golden triangle' for UK Logistics operations in the Midlands, which is able to serve large parts of the UK effectively. It is clear that East Midlands is geared up for major increase in freight tonnage, supported by extensive logistic infrastructure development in the East Midlands Gateway and with the express support of local planning policy. Trucking of freight to Liege and to East Midlands is reflective of the air freight industry structure, not the specific consequence of constraint in London, and reflects the efficiency of centrally located hub operations. The repeated assertion that East Midlands is facing capacity constraints is not borne out by the facts, including evidence that the Airport is constructing additional aircraft stands as demand grows, alongside facility developments by other parties such as UPS and Amazon (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 – ND.1.15 [REP4-065] and https://mediacentre.eastmidlandsairport.com/new-facilities-for-east-midlands-airport-passengers/).</p>
ND.2.9	<p>In this response, the Applicant seeks to dismiss the impact of the current downturn in global air freight tonnages. It is important to note that we did not factor the short term downturn into our assessment of whether there is a need for additional cargo handling capacity at Manston (see York Aviation Report, February 2019, Figure 4.7). Even without slowing the growth in the early years, there is no need for Manston.</p>

ND.2.10	This response seeks to downplay the significance of the use of the wrong charts from the Oxford Economics/Ramboll work for Transport for London (TfL). It is clear that, when properly read, this work demonstrates that the growth in demand is for bellyhold capacity not pure freighters in the London area. This is a key point. When read as a whole, in the context of the Mayor's position in relation to the need for hub capacity to serve London (on which York Aviation were concurrently working alongside Oxford Economics and Ramboll), it is clear that this analysis reflects the shortage of hub capacity for passenger and bellyhold operations combined rather than any shortage of capacity for dedicated freighters.
ND.2.11	<p>The final version of Azimuth Reports may not identify carriers specifically but the fleet mix in the ES, which was stated by Wood at the Hearings to be derived solely from the work of Azimuth, does and this level of detail has been used to inform the environmental assessment along with the specific markets proposed and sector lengths (relevant to air quality and climate change considerations). The Applicant cannot resile from this as its evidence.</p> <p>The response continues to claim that the forecasting methodology is robust, relying on Northpoint's attempt to corroborate the Azimuth results (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5 (paras. 28-38) [REP5-031]. The response fails to provide the additional evidence to justify the forecasts requested by the Ex A and self-confessedly has failed to take key factors into account (see comment on ND.2.1 above).</p>
ND.2.12	The Applicant claims that two of the new integrators would make an early commitment to Manston but this is not supported by any evidence, nor are such integrators referred in response to question ND.2.2. In any event, East Midlands Airport is expanding facilities expressly for Amazon, which is developing a major fulfilment centre as part of the East Midlands Gateway. The answer does not provide any evidence that could be relied on. The assertion that East Midlands Airport has daytime slot constraints is without evidence and highly unlikely to be true.
ND.2.13	Despite the evidence provide by Altitude Aviation Advisory at Deadline 5 [REP5-029], the Applicant continues to assert that new e-commerce integrators would prefer to fly during the day on the basis that flights are not related to the achievement of delivery times but to restocking of fulfilment centres. However, in order to meet the delivery times required, goods need to be dispatched in the morning from these centres, requiring the restocking operation overnight. Overall, this response is muddled and inconsistent with other answers (ND.2.6, 2.14). If the requirement is for goods from overseas to be air freighted into stock fulfillment centres in the UK, this is inconsistent with the earlier answer that the widebodied aircraft would be carrying 100% outbound loads but only 20% inbound. This simply does not make sense. If the small feeders aircraft from Europe are bringing in imports to be distributed overseas by widebodied aircraft, how does that relate at all to stocking of fulfilment centres in the South East of England.
ND.2.14	In this response, it is claimed that the e-commerce integrator would be serving routes mainly to the US and Far East. It is totally unclear why an e-commerce integrator would be concentrating on exporting goods to the Far East and the USA as stated in the response to ND.2.6. Surely the key feature of Rockford and the role it plays in the US supply chain is its central location between E and W coasts of the USA. The UK equivalent would be East Midlands and, for Europe, this role is fulfilled by airports such as Liege and Leipzig.
ND.2.15	The response provided regarding the accuracy of Boeing and Airbus forecasts shows that Boeing was reasonably accurate in a 20 year projection of the total aircraft fleet but overstated demand for pure freighter aircraft by 25%. What the graphic provided shows is a reasonable degree of accuracy in forecasting total aircraft and revenue passenger miles but a significant overstatement of demand for pure freighters. The Applicant is wrong to state that Boeing does not project a decline in the share of freight carried in dedicated freighters globally. The Boeing 2018 Forecasts (https://www.boeing.com/resources/boeingdotcom/commercial/market/commercial-market-outlook/assets/downloads/2018-cmo-09-11.pdf) actually show a predicted reduction in the share of FTKs on freighters:

DEDICATED FREIGHTERS CARRY – AND WILL CONTINUE TO CARRY – MORE THAN HALF OF AIR CARGO TRAFFIC



The reduction in the share of freighter aircraft movements will exceed that of RTKs due to increased tonnage per aircraft. If cargo growth undershoots 4.2% p.a. as seems likely given short term trends, the role of freighters is likely to be less (compare the previous period with 4.3% growth to the more recent period with 2.6% growth when the role of freighters declined).

The analysis of currently served routes from Heathrow only serves to emphasise the breadth of destinations available on a bellyhold basis from Heathrow. It is the Government's intention that a substantial proportion of the new capacity offered by R3 will be used to allow additional global points to be served. To the extent that there remain gaps in the network, it is difficult to see how the operation of dedicated freighter aircraft to fill these gaps would be viable as levels of demand are likely only to warrant infrequent services, which would result in freight being delayed compared to using well established bellyhold hub routings.

ND.2.16	This response does not address the question posed. Fruit and vegetables are relatively high weight/low value compared to say diamonds or specialist pharmaceuticals or electrical components, for example.
ND.2.17	In relation to the repeated references to York Aviation's work for TfL and the FTA, the reports when read in their entirety do not support the Applicant's view. Whilst TfL may well have stated that the reports were unambiguous and that they had relied on them, it is our understanding that they were not specifically asked in relation to the implications for Manston. The Applicant needs to provide evidence to support its claims. It is simply not reasonable to accept the Applicant's interpretation of these reports over those of the authors, particularly

	when evidence has been produced to demonstrate that the methodologies used within them, when applied to the current market position, simply demonstrate that there is no role or need for Manston (York Aviation February 2019 Report, paras 4.31 to 4.41). We do not resile from the point made in the report regarding the potential additional trucking cost to shippers but it does not follow that the solution was ever the need for a dedicated freighter airport, rather the need was and is for more hub airport capacity at London providing bellyhold freight capacity, which R3 at Heathrow will provide. The ANPS rightly recognises that the 3 rd runway at Heathrow is the means of addressing this need.																																				
ND.2.18	<p>To assist the ExA, we have set out below the information on fuel prices relative to 2000. This is taken from Platts (https://www.spglobal.com/platts/en/oil/refined-products/jetfuel). The chart provided by the applicant deals only with fuel prices since 2012, the relativity to 2000 is shown below.</p> <p>Jet Fuel Prices <small>New York (Platts)--09May19/0521 pm EDT/ 2121 GMT</small></p> <p>\$201.62 cts/gal SHARE IN WORLD INDEX CTS/GAL \$/BBL \$/MT INDEX VALUE 2000=100%</p> <table><tr><td>Platts Global Index</td><td>100%</td><td>201.62</td><td>84.68</td><td>667.73</td><td>231.48%</td></tr></table> <p>Platts Regional Indices</p> <table><tr><td>Asia & Oceania</td><td>22%</td><td>194.91</td><td>81.86</td><td>646.72</td><td>233.90%</td></tr><tr><td>Europe & CIS</td><td>28%</td><td>200.10</td><td>84.04</td><td>662.25</td><td>226.43%</td></tr><tr><td>Middle East & Africa</td><td>7%</td><td>192.00</td><td>80.64</td><td>636.22</td><td>240.81%</td></tr><tr><td>North America</td><td>39%</td><td>207.47</td><td>87.14</td><td>688.39</td><td>231.65%</td></tr><tr><td>Latin & Central America</td><td>4%</td><td>209.42</td><td>87.96</td><td>677.27</td><td>243.65%</td></tr></table>	Platts Global Index	100%	201.62	84.68	667.73	231.48%	Asia & Oceania	22%	194.91	81.86	646.72	233.90%	Europe & CIS	28%	200.10	84.04	662.25	226.43%	Middle East & Africa	7%	192.00	80.64	636.22	240.81%	North America	39%	207.47	87.14	688.39	231.65%	Latin & Central America	4%	209.42	87.96	677.27	243.65%
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	<p>This data (as referred to in the York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, para. 19) [REP5-031] confirms that fuel prices have risen by 131.5% since 2000. This increase brought about the change in the trend towards more trucking and less use of dedicated freighters. The more recent smaller magnitude falls have not been sufficient to reverse this trend.</p> <p>The hypothesis that air freight does not lend itself to trucking does not bear examination. As the Steer Report for Airlines UK makes clear (see York Aviation Report February 2019, paras. 4.13-4.15) [REP3-025], there is substantial trucking into Heathrow from Europe to avail of transatlantic bellyhold capacity so the flow is not just one way.</p> <p>The comments made in the response about rapid delivery with e-commerce appears, again, to contradict the claims above that e-commerce integrator freight will be less concerned with overnight speed of delivery and so be willing to operate in the hours when Manston is open.</p>
ND.2.19	This response fails to address the possible economic effects of Brexit on GDP and demand. This is likely to far outweigh any temporary friction at the border, particularly given the emphasis on agreeing electronic solutions to border controls.
ND.2.20	This response simply repeats unsubstantiated assertions about capacity constraints at Stansted. We have already made the position clear at ND.1.13, ND.1.18, ND.1.31, ND.1.39 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4. [REP4-065]
ND.2.21	The adjusted limits at Stansted, consequent upon the recent planning consent still provide for 60% growth in cargo flights at Stansted (see ND.1.18 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4) [REP4-065]
ND.2.22	<p>The contents of this response in relation to physical capacity at Stansted are again just speculation. The position in relation to available stand capacity for freighter aircraft at Stansted is set out at ND.1.8 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 [REP4-065]. The answer provided by the Applicant appears to ignore the existence of the apron to the east of the Cargo buildings which is available and used for freighters. From the Google Earth image previously submitted (Answer ND.1.8), it is clear that there is no airside road connection to these stands from the passenger terminal so they would be unsuitable for regular passenger use.</p> <p>We strongly believe that the current CAA data indicating that no freight is currently being carried on the Emirates services from Stansted since its inauguration on 2018 is incorrect (See Stonehill Park's Deadline 6 submission in relation to the Need and Operations Hearing, para. 4.43) [REP6-055].</p>
ND.2.23	This answer provided by the Applicant fails to grasp the significant investment at East Midlands Airport in expanded modern freight facilities. New facilities will be just as state of the art as anything at Manston. This answer provided is nothing more than speculation.
ND.2.24	This response appears to be based on the concept that there is a unique market for dedicated freighter aircraft serving London and the South East in isolation from the rest of the country. There is no evidence that this is the case and goods flown from London often originate in the rest of the country but are consolidated in the vicinity of Heathrow as part of the process of seeking the most cost effective means of transport for goods, taking into account both time and cost. There is ample evidence that much of the air freight currently flown from London airports has origins or destinations in the rest of the country (see York Aviation Report February 2019, paras. 2.18, 4.25-4.27) [REP3-025]. Manston would inevitably be in competition with East Midlands to attract a share of this traffic and, given the overall location of demand across the UK, it would be reasonable to expect East Midlands to be the preferred alternative for any overspill from the London

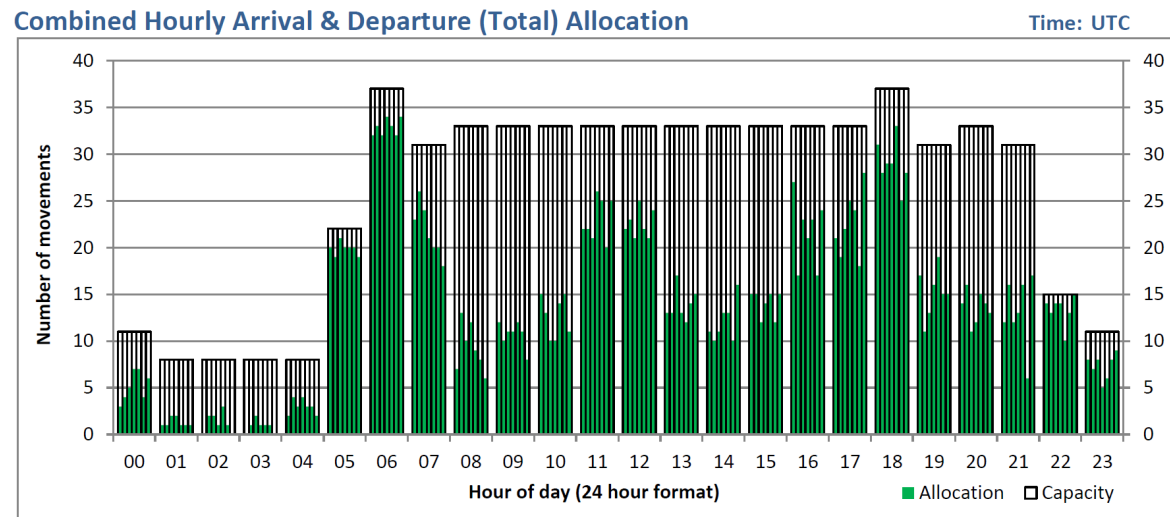
	airports. The Applicant simply has not factored how the industry works in practice into its forecasts, including the role of East Midlands as a growing logistics hub.
ND.2.25	<p>The Applicant is not strictly correct to argue that there would be no displacement of activity from East Midlands. In the counterfactual case of no development at Manston, East Midlands would be expected to accommodate a large part of the demand and is investing, with partners such as UPS, in facilities to enable it to do so, supported by local planning policy (see York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4, ND.1.15) [REP4-065]. If Manston were to enter the market and achieve any share of the projected market, this would be diverted from other UK airports and would need to be taken into account in any national level assessment.</p> <p>Nor is it correct to construe that the conventional integrators (DHL, UPS etc) constitute a distinct market from the 'new' e-commerce integrators (see York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 42-45) [REP5-031]. There is growing commentary in the media regarding the competitive inter-relationship between Amazon Air and the conventional integrators, which clearly see displacement of activity (e.g. https://dailymemphian.com/article/4718/Amazon-Prime-One-Day-Will-it-hurt-or-help-FedEx). It is clear that the markets are not distinct. In any event, Amazon is already present at East Midlands and if it was somehow attracted to Manston instead, this would be displacement.</p> <p>There is no evidence that East Midlands is turning general freighters away, the limited operation is more reflective of the limited market for such freighters, which could use East Midlands if any activity was, in future, displaced from Stansted. The critical factor here is proximity to the freight forwarding cluster at Heathrow, where loads are consolidated, not the general South of East of England market. In this context, Manston offers little to no reliable advantage.</p> <p>Hence, some element of any growth at Manston would effectively be displacement, so leading to reduced economic activity at other airports and reduced employment that would need to be taken into account at the national level of the employment forecasts as presented by Azimuth.</p>
ND.2.26	The general description of road traffic issues in the vicinity of Bournemouth Airport could apply equally well to Manston.
ND.2.27	<p>The dominance of long haul freight at the London airports is reflective of the global connectivity offered by Heathrow in bellyhold. The fact that most freight is shipped this way is reflective of bellyhold capacity available. Given the available bellyhold capacity at Heathrow and, increasingly, at other UK airports, there has been little need for dedicated long haul freighters. It is for this reason that the ANPS sees R3 at Heathrow as the primary means to ensure that the UK's air freight requirements are met for the longer term.</p> <p>Although the ExA's question asked about the "<i>window of opportunity</i>" for Manston, as raised in the Northpoint Report submitted at Deadline 4, the answer now seeks to construe Manston's role as entirely complementary to Heathrow. It would be helpful to the Examination if the Applicant could clarify what their position is. In practice, if there was realistically a complementary role for Manston, why would this not have manifested itself by growth at Manston prior to its closure in 2014, given long standing congestion and shortage of slots at Heathrow and in the light of the ambitious plans for air freight growth being advanced by its previous owners and operators (including Plane Station for which Tony Freudmann was a Director). It is more likely now that any potential complementary role would be materially lessened as a consequence of the additional capacity provided by R3.</p>

ND.2.28	<p>The response seems confused regarding permitted development rights, as the ExA has pointed out the latest issued questions of 10th May. Cargo aprons and supporting operational buildings could be built as permitted development under Class F of the General Permitted Development Order 2015, albeit they would be subject to environmental screening and, potentially, environmental assessment dependent on scale. The 15% restriction applies only to passenger terminal buildings. Again, the Applicant's answer depends on the unsubstantiated thesis that the other airports (East Midlands and Stansted) will seek to displace general freighter activity.</p> <p>There is no reason why the other airports could not use Permitted Development rights or otherwise apply for permission for such state of the art buildings as the Applicant proposes for Manston if there was, indeed, a business case for them.</p> <p>It is important to recognise that the risk of aircraft being subject to delay at an airport is not due to slot constraints at the airport in question as these slots relate to planned operations. Rather, the issue of <i>"cargo aircraft being delayed for some considerable time waiting for a slot"</i> is more often related to the need to obtain an ATFM (Air Traffic Flow Management) slot from Eurocontrol related more generally to congestion in the airspace over Europe as a whole. Manston will also be subject to such potential delays, which happen regardless of congestion or not at the departure airport.</p> <p>This answer further repeats the claim that automation will not affect 'existing' jobs but that is not the point. An automated airport will almost inevitably have a lower employment density than a current cargo airport (see further comments on answers to SE.2.2 and SE.2.4 below). This will impact on the employment forecasts going forward.</p>
ND.2.29	<p>This response misrepresents our position. Integrator bases, and their supporting infrastructure, rely on central locations able to serve large markets, i.e. Leipzig and Liege, and East Midlands in the UK on a smaller scale. Manston is simply in the wrong location to be favoured for this type of operation.</p> <p>The concentration of infrastructure around the main hubs relates to infrastructure supporting bellyhold operations which also, in the case of Frankfurt, supports some dedicated freighter activity to compensate for the lower volume of bellyhold capacity available there.</p> <p>As noted at ND.1.10 of York Aviation Comments on Applicant's Deadline 3 Responses to Questions from the Examining Authority submitted at Deadline 4 [REP4-065], the use of the DfT capacity chart from UK Aviation Forecasts 2017 is not relevant as it relates only to passenger terminal capacity and the circumstance of no third runway at Heathrow. We have not expressed concern about the competitive effect of Manston on the case for R3 but the exact converse.</p>
ND.2.30	<p>This response by the Applicant contains the unevidenced claim that Manston would offer <i>"lower shipping costs"</i>. This flies in the face of the Applicant's own business model showing materially higher charges and the evidence related to the relative cost of dedicated freighter operations compared to bellyhold, which stands un rebutted. This statement is not consistent with the 'price setter' claim made by the Applicant.</p>
ND.2.31	<p>This response contains a long treatise on the length of time taken to build new runways in the UK. However, the response does not address the ability of airports to add cargo handling capacity where and when needed.</p> <p>The second part of the answer deals only with the scope for adding hourly capacity on a runway that is already operating at its maximum. Utilisation of a runway can be increased by providing additional infrastructure, e.g. stands, terminals, to allow greater utilisation of existing</p>

	<p>available capacity and by increasing utilisation over a day. In many cases, the declared runway capacity at an airport may reflect the operation of other constraints, often stand/apron constraints, which mean that the full use of the runway cannot in practice be achieved without the provision of other infrastructure, some of which may be permitted development or otherwise considerably easier to obtain planning consent for.</p>
ND.2.32	<p>It is now asserted by the Applicant that the 770 B737 movements shown as operating Postal Services will not in fact be related to mail services, as shown in the ES, due to the night movement restrictions now proposed. This implies they would be for some other unstated purpose. Given the Azimuth 'forecast' relied on for the ES was produced bottom up, airline by airline/route by route, rather than developed from consideration of an overall share of the market, the need for these services does not exist independent of the airline/route expected to operate them. Hence, if these are not mail services, they have to be stripped out of the forecasts. Similarly, any other specific operations which could not operate at night due to the planned restrictions, such as integrator operations, would also have to be stripped out.</p>
ND.2.33	<p>This response seeks to rebut the point made by Stonehill Park regarding CAA data by reverting to using Boeing RPK forecasts and applying these to non-domestic freighter movements to argue that there is sufficient market for Manston. This is nonsense, as we made clear in the York Aviation November 2018 (para. 2.47) and February 2019 (para. 3.23) reports [REP3-025]. This is once again a misapplication of data and growth rates by the Applicant.</p> <p>It is unclear where the up to 1.5 million tonnes cited of excess cargo comes from but, to the extent that this derives from the Northpoint Report submitted at Deadline 4, we have explained how this is not a proper or realistic approach in the York Aviation Supplementary Note following Hearings on Compulsory Acquisition and Need submitted at Deadline 5, paras. 28-38 [REP5-065].</p>
ND.2.34	<p>The only advantages that the Applicant claims for Manston are its runway length, which is no longer than several other airports in the UK, its geographic location in the UK, which is more of a disadvantage than an advantage relative to the totality of the market, and the fact that it is currently unused. This latter point is not an advantage as it means that anyone wishing to use it will have to bear the full cost of bringing it into use.</p> <p>The response again claims, without evidence, that Azimuth's 'forecasts' take into account growth at other airports and that it can intercept demand otherwise being trucked between the UK and Europe. There is no evidence as to why this should be the case (see above in relation to the Northpoint Report).</p> <p>The response implies that shippers will be willing to pay anything to achieve speed of transit. This is simply not so and shippers will balance speed and cost, other than for very specialist consignments (e.g. organs for transplant) where speed is absolutely the critical factor. This latter part of the market is only a small part of the whole.</p>
ND.2.35	<p>The response cites projections for passenger operations produced by Aviasolutions, in its 2016 Report for Thanet District Council, as validating the Azimuth passenger 'forecasts'. Significantly, these projections did not take into account the potential for greater use of infrastructure at Gatwick and Luton airports, both of which are proposing to increase their capacity on their existing runway infrastructure. To the extent that the Aviasolutions projections for Manston were heavily dependent on 'spill' from other airports, these increases in capacity will remove the spill component to a large extent, leaving the projections dependent on the assumption of 800,000 passengers a year as attainable from a Ryanair base. Furthermore, when Aviasolutions put together its projection, the prospect of a restriction on night</p>

	<p>operations at Manston was not known so Aviasolution will not have factored in the deterrent effect that would have on any airline basing aircraft at the Airport.</p> <p>The remainder of the response simply restates the assertions regarding the potential passenger markets from the Azimuth Reports without providing further evidence or explanation. Claims that the Azimuth ‘forecasts’ take into account the elderly who would prefer to use small airports and the importance of pilgrims are simply distractions. The response does not provide any quantification of the size of these markets.</p> <p>In relation to Southend Airport, it has seen strong growth in recent years but examination of its latest published accounts for FY2017/8 (London Southend Airport Ltd – Companies House) shows that its operating losses worsened from £3.6 million to £6.5 million, which strongly indicates that it has been ‘buying traffic’. On the basis of the aeronautical charges proposed by RSP for Manston in its business model, it would not be realistic to assume that similar growth could be seen at Manston without substantial erosion of the projected income.</p> <p>The list provided of Ryanair flights after 23.00 at regional airports may be correct but the important consideration is not what proportion of flights operate at night but the impact that a night constraint would have on the flexibility to maximise use of any based aircraft over a week. This is an important consideration for an airline considering where to base aircraft and needs to be taken into account (see para. 4 of York Aviation’s Note of Oral Evidence given at the Noise Hearing submitted at Deadline 5) [REP5-065]. The Applicant should be asked explicitly if Ryanair is aware of the night flying policy and whether it is still committed to basing 3 aircraft in these circumstances and at the price that RSP expects to charge for using the Airport as shown in the business model. The fact that Ryanair has no based aircraft at Exeter simply highlights that flexibility to schedule some flights to operate after 23.00 is essential to attaining based operations.</p>
Ns.2.3	This response fails to acknowledge the potential impact of small general aviation aircraft flying circuits associated with flying training on the persistent levels of noise over local populations.
Ns.2.18	It is not clear what the impact of a commitment to a noise contour area cap would have on the ‘forecasts’ of usage if, for example ATR72s were replaced by B737 or other jet aircraft or if the GA movements included some element of business jet operations consistent with the proposal to develop an FBO (Fixed Base Operation).
Ns.2.19	The Applicant’s response addresses why new flightpaths are needed to reflect latest R-NAV practices but does not answer the question as to whether the proposed noise minimised flight paths are likely to be acceptable or whether an R-NAV variant of the previous flight paths should have been adopted as a more realistic basis for assessment in the first instance
Ns.2.21	As noted in response to ND.2.35 above, the Applicant clearly does not understand the point being made: with 15% of arrivals at night this equates to 40% of based aircraft requiring a movement in the night period as part of their overall daily pattern of rotations as, by definition, the remainder of flight operations are outside of the night time period. Therefore, the effect of any restriction in operations after 23.00 (notwithstanding that Manston many avail of marginally shorter flight times on some sectors) reduces the likelihood of aircraft being based. As the majority of passengers forecast to use Manston are claimed to be on based aircraft, this is an important consideration. The reason that Luton was chosen as the example in York Aviation’s Note of Oral Evidence given at the Noise Hearing submitted at Deadline 5 [REP5-032] is because that was Mr Freudmann’s example given in oral evidence. The night movements arise by consequence of the rotation pattern of aircraft to maximise economic usage of the available flying hours not any slot restrictions in the period leading up to the night time. To the extent that there are operational constraints at Luton currently, the limiting factor is availability of stands for overnight aircraft

parking rather than slots in the period leading up to 23.00 as can be seen in Luton's pre-season scheduling report for Summer 2018 (<https://www.acl-uk.org/airport-info/>), which shows ample slots to be available.



OP.2.2 We do not believe the response regarding FASI-S to be correct and that the risk of delay to opening remains.

OP.2.3 In terms of the need for dedicated aircraft stands for based aircraft, the comment about a requirement for dedicated equipment on each stand is nonsense as this implies specialist equipment for each individual aircraft. Operators are highly unlikely to want to pay for dedicated stands or dedicated equipment as this would not be consistent with cost efficiency.

There is no evidence that the aircraft cannot be scheduled and stand allocation planned to allow MARS (multiple apron ramp system) use. Such multiple centerline operations take place at virtually all major airports with a mix of Code C and Code E operations so as to ensure that the efficient use of valuable apron space is maximised.

We do not believe the information provided by the Applicant regarding East Midlands Airport having 24 Code E stands to be correct. There are multiple centerlines for different aircraft types in use at East Midlands and our information as to the stand availability is as set out in the table below. Not all of these stands could be used at the same time. Maximum Code E occupancy would be 8 Code E aircraft. There are more Code D centerlines available reflecting the nature of the fleet mainly operated at East Midlands today.


	<table><tr><th>H</th><th>I</th><th>J</th><th>K</th><th>L</th><th>M</th><th>N</th><th>O</th></tr><tr><td>Apron</td><td>Centrelines</td><td>Code B</td><td>Code C</td><td>Code D</td><td>Code E</td><td>Code F</td><td>Total CL's</td></tr><tr><td rowspan="2">West (DHL)</td><td>Min CLs</td><td>0</td><td>6</td><td>6</td><td>5</td><td>2</td><td>19</td></tr><tr><td>Max CLs</td><td>2</td><td>5</td><td>10</td><td>2</td><td>2</td><td>21</td></tr><tr><td rowspan="2">East</td><td>Min CLs</td><td>0</td><td>2</td><td>5</td><td>1</td><td>0</td><td>8</td></tr><tr><td>Max CLs</td><td>0</td><td>12</td><td>1</td><td>0</td><td>0</td><td>13</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>	H	I	J	K	L	M	N	O	Apron	Centrelines	Code B	Code C	Code D	Code E	Code F	Total CL's	West (DHL)	Min CLs	0	6	6	5	2	19	Max CLs	2	5	10	2	2	21	East	Min CLs	0	2	5	1	0	8	Max CLs	0	12	1	0	0	13																
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OP.2.4	<p>In this response, the Applicant wrongly asserts that road based freight is not a major factor at EMA (see York Aviation Report February 2019, para 6.23) [REP3-025]. In the response, the Applicant still does not set out any robust basis justifying the scale of facilities proposed. If there is to be no road based freight at Manston then this validates the need for the cargo handling facilities to be much smaller than East Midlands. The response does not address the IATA benchmarks for the scale of development required for efficient automated cargo centres in future (see York Aviation Report February 2019, paras 6.21-6.22).</p>																																																														
OP.2.5	<p>As noted in relation to the Draft DCO, many of the listed Associated Uses for the Northern Grass are not related at all to the principal development as they are passenger not cargo related or related to the maintenance/recycling of aircraft. In any event, the response provides no justification for the proposed scale (floor area) of these uses and why they are needed, e.g. how is an Aviation Academy in any way associated development related to a cargo airport and surely this would be more likely to be located at a local college.</p> <p>Even in relation to those uses which are freight related, the largest of these is a Logistics Centre for the new integrator. Such a Logistics Centre would need airside access, as is the case with the DHL facility and the new UPS facility at East Midlands and so would not be able to locate on the Northern Grass. Manston is simply in the wrong location for a Fulfillment or Distribution Centre, which would necessarily need to be located closer to major urban areas and not on the Northern Grass.</p> <p>The Applicant again seeks to justify the overall floor space requirement by reference to other airports (Appendices to OP.2.5 Response). However, when properly understood the comparisons are not supportive of its case. In Appendix OP.2.5, RSP start by stating that they aim to illustrate the relationship between ‘airport associated development’ and the requirement for the Northern Grass through comparison to 4 cargo airport examples. They then explain the method used to measure the floor spaces at the 4 airports, which they caveat as being desk based only and ‘approximate’. Whilst we do not attempt to question the accuracy of any of the areas measured, we would certainly question the inclusion of most of the areas as in any way relevant to the principal cargo related development.</p> <p>As stated, the proposal for the Northern Grass is for an area of 105,100m² of floor space for B1/B2/B8 uses. It, therefore, makes no sense at all that the exercise as detailed by RPS catalogues/includes areas for the passenger terminals, cargo sheds, maintenance and parking</p>																																																														

	<p>hangars, airside facilities buildings within airside locations with direct access to the runways, as well as a wide variety of office and industrial buildings occupied by businesses that clearly have nothing at all to do with aviation.</p> <p>If you take East Midlands as an example, the total floor area stated by RPS is 194,615m². However, if you remove all the front line cargo sheds from the total (as they are airside facing and could not be provided in a landside area like the Northern Grass), the passenger terminal and the airside maintenance hangars and buildings, you remove approximately 72% from the total floor area. If you then remove all the passenger related hotels and businesses that have no aviation links, such as Price Waterhouse Coopers, Medstrom Healthcare and Western Power Distribution, then you come down to an area of around 25,750m² which is only 13% of RSP's stated total. If you take out all of the 'unknown' business space then you are left with just under 15,500m² which is only 8% of the total area quoted or just over 15% of the area proposed for the Northern Grass.</p> <p>The same approach to including all areas has been taken in the other comparator examples where the passenger terminal, front line cargo shed and airside hangars etc have been included in the totals. None of these functions bear any relevance to the question of 'Associated Development' in the context of a landside business park for B1/B2/B8 uses directly related to the purpose of the principal development at Manston. To highlight the absurdity of the approach used by RPS, the Liege example includes an area of 4,360m² comprised of a poultry farm. Clearly, this is not remotely relevant to the comparison of areas devoted to equivalent uses to those that might be permitted on the Northern Grass.</p> <p>At no point does this exercise seek to actually explain how any of these areas compare to their proposal for the Northern Grass. It is merely an exercise in documenting the various areas of all the buildings located within the general bounds of 4 cargo dominated airports.</p>
SE.2.2	<p>In relation to employment, the Applicant continues to rely on out of date general ratios for employment density and, in any event, these relate to averages over the whole of Europe, including the major hub airports with major airlines headquartered at them, so driving up employment density. This is simply not a relevant basis for a dedicated cargo/low cost airport where employment densities would be significantly lower. The response does not address the ExA's points about the structure of employment at East Midlands Airport specifically.</p> <p>In terms of the location of employees, it is not correct to say that employees at East Midlands Airport live locally to the Airport.</p> <p>The East Midlands Airport Sustainable Development Plan states that 89% of employees live within the neighbouring 3 counties https://live-webadmin-media.s3.amazonaws.com/media/2931/ema-sdp-2015-economy-and-surface-access.pdf. This is quite a wide area covering Derbyshire, Leicestershire and Nottinghamshire, some 85% larger than the total area of Kent and 67 times the area of Thanet. Hence, on a comparative basis, it is reasonable to expect that the catchment area for employment at Manston would not be localised in the manner asserted by the Applicant.</p> <p>We note that the Applicant has made some attempt to adopt our recommendations regarding the inclusion of a productivity factor (see York Aviation Report February 2019, paras. 3.53-3.54) [REP3-025]. However, this is meaningless if the initial employment density has been set too high. Our comments on the validity of the socio-economic assessment need to be seen in the round and not 'cherry picked' as the Applicant seeks to do.</p>

SE.2.4	<p>We note that the Applicant seeks to rebut our adoption of Prestwick as a relevant benchmark for employment at Manston. We still consider Prestwick to be the appropriate benchmark for employment density (jobs per workload unit) at 650. If they wish to use East Midlands as a benchmark, it is essential that the jobs related specifically to the relevant activity only (cargo handling, passenger processing and aircraft maintenance) are included, i.e. excluding non-airport related jobs that are located in the vicinity of the Airport, e.g. Pegasus Business Park. As made clear at paras 3.53-3.54 of York Aviation's February 2019 Report, the aviation related employment density at East Midlands is substantially lower than 887 jobs per workload unit and closer to the density seen at Prestwick. To the extent that operations at Manston are more highly automated than at East Midlands, as is claimed by the Applicant, the relevant employment density would be proportionately lower still.</p>
SE.2.6	<p>As noted above, the job numbers in Thanet have been substantially overstated due to inaccurate assessments of direct local employment as distinct from in-commuting and also through the application of national rather than local level indirect/induced multipliers (see York Aviation Report November 2017, para. 5.6) [REP3-025].</p>
SE.2.7	<p>It is unclear why there would be 4 shifts of handling staff when the Airport is shut at night and the normal pattern is 3 shifts even where an airport is a 24 hour operation.</p> <p>There are no precedents stated for the assumed levels of employment in MRO activity. Based on information available elsewhere, the assumption of 600 staff employed in aircraft recycling is heroic. The ExA should ask for evidence as to the justification for this figure. By way of comparison, Monarch Engineering, prior to going into administration, employed 553 staff operating large hangars and substantial aircraft maintenance across 3 large airports. Air Salvage International at Cotswold Airport, which has facilities for between 20 and 50 aircraft to be dismantled at any one time employs only 40 staff - http://airsalvage.co.uk/asi-celebrates-its-20th-anniversary-milestone/.</p> <p>We note that the figures for staff bussing appear to be based on a 3 not a 4 shift system which is inconsistent. In any event, why would 14 drivers per shift be required just for staff bussing. This begs the question as to whether the costs of these staff and the busses been factored into the operational costs within the business model.</p>
SE.2.8	<p>If national figures are used as the basis of the employment estimates, including indirect and induced employment, displacement effects from other airports need to be taken into account. It is vitally important for there to be clarity on the geographies used in the assessment to ensure that employment and economic effects are not overstated.</p>
SE.2.9	<p>In this response, the Applicant tries to argue that there will be no displacement of activity as jobs lost will be backfilled by other jobs. What is the evidence for this? The ExA's question as to whether the development would solely be handling unmet demand is simply not addressed. As the evidence makes clear, demand is being met currently but by other airports and by trucking. Hence, there is displacement of activity from somewhere and certainly displacement of growth at a national level. Clawback of trucked activity is shown in the Northpoint model to reach between 125,000 and 600,000 tonnes in year 20, so citing 1st year of operation figures for displacement from trucking is disingenuous. No explanation is given as to why this trucking would be intercepted and fly from Manston in any event.</p>
SE.2.12	<p>This response speculates that older visitors are more likely to stay overnight prior to flying from an airport. There is no actual evidence that this is so. The use of Dubai as a comparator for the tourism industry is self evidently absurd.</p> <p>The ExA's questions about the catchment are for passengers and the likelihood of them staying overnight locally is simply not addressed. No evidence is provided as to the extent to which the listed hotels in the vicinity of Southend Airport are actually used by air passengers as distinct from more general visitors to the Southend area who chose to use new rather than older hotels.</p>

SE.2.15	<p>In this response, the Applicant first of all uses average data from all UK airports (including Heathrow) as a basis for its estimate of potential inbound tourist numbers that might use Manston and then concedes that data for smaller airports might be more relevant. It is somewhat misleading, therefore that it includes Gatwick, Stansted and Luton in its list of smaller airports, handling 45.9 mppa, 25.9 mppa and 16 mppa respectively in 2017.</p> <p>More relevant comparators for Manston would be Cardiff, surveyed in 2015 when it was handling 1.1 mppa, and Doncaster Sheffield surveyed in 2014 when it was handling 0.7 mppa. Using detailed CAA survey data, the split of passengers by residence and purpose is shown in the table below.</p>																																																	
	<table border="1"> <thead> <tr> <th rowspan="2"></th><th colspan="3">UK</th><th colspan="3">Foreign</th><th rowspan="2">Total</th></tr> <tr> <th>Business</th><th>Leisure</th><th>(of which) VFR</th><th>Business</th><th>Leisure</th><th>(of which) VFR</th></tr> </thead> <tbody> <tr> <td rowspan="2">Cardiff Airport (2015)</td><td>85,421</td><td>812,959</td><td>156,153</td><td>60,761</td><td>170,523</td><td>84,370</td><td>1,129,664</td></tr> <tr> <td>7.6%</td><td>72%</td><td>19%</td><td>5.4%</td><td>15.1%</td><td>49%</td><td>100%</td></tr> <tr> <td rowspan="2">Doncaster Sheffield Airport (2014)</td><td>11,310</td><td>603,022</td><td>180,458</td><td>8,742</td><td>98,691</td><td>93,903</td><td>721,766</td></tr> <tr> <td>1.6%</td><td>83.5%</td><td>30%</td><td>1.2%</td><td>13.7%</td><td>95%</td><td>100%</td></tr> </tbody> </table> <p>The proportion of foreign leisure passengers visiting friends and relatives (VFR) is important as such visitors do not typically stay in hotels and generate a substantially lower economic injection locally. The expected levels of true inbound tourism are likely to be substantially less than asserted by the Applicant.</p>								UK			Foreign			Total	Business	Leisure	(of which) VFR	Business	Leisure	(of which) VFR	Cardiff Airport (2015)	85,421	812,959	156,153	60,761	170,523	84,370	1,129,664	7.6%	72%	19%	5.4%	15.1%	49%	100%	Doncaster Sheffield Airport (2014)	11,310	603,022	180,458	8,742	98,691	93,903	721,766	1.6%	83.5%	30%	1.2%	13.7%	95%
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lc/16.5.19

From: James Mills <James.Mills@
Sent: 01 October 2018 12:59
To: Jamie Macnamara
Subject: RE: Public Safety Zones

Dear Jamie,

Apologies for the delay in getting back to you,



You are correct to note that Public Safety Zones are based upon risk contours modelled looking fifteen years ahead and are generally re-modelled every seven years or so, and that PSZs will be redefined if a runway is extended or if a landing threshold is moved.

As a matter of policy, the Department for Transport applies Public Safety Zones at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements. I am therefore happy to confirm that this is the criteria for assessing the requirement for PSZs for new and enlarged airports.

As noted in the DfT Circular 01/2010, the CAA has taken over responsibility for the implementation of new PSZs.

Kind Regards,
James

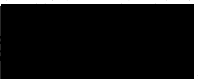
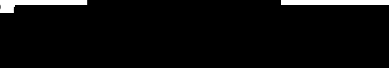
James Mills | Aviation Strategy & Consumers Division, Department for Transport
1/25 | 

From: Jamie Macnamara [mailto:jamie@
Sent: 01 October 2018 10:37
To: James Mills <James.Mills@
Subject: RE: Public Safety Zones

Dear James,

Apologies for chasing again, but is there any update on when you will be able to revert on the query regarding criteria for Public Safety Zones?

Many thanks
Jamie

From: James Mills [mailto:James.Mills@
Sent: 21 September 2018 10:58
To: Jamie Macnamara <jamie@
Subject: RE: Public Safety Zones

Dear Jamie,

Apologies for the delay in getting back to you – I should be able to have a response for you by next week.

Many apologies,
James

James Mills | Aviation Strategy & Consumers Division, Department for Transport
1/25 | 