

**Dated: 17 MAY 2019**

## **FOREWORD**

- In an effort to aid the ExA we are submitting comments with evidence in the form of a row under each of the answers provided by the Applicant on a section by section basis. **This submission covers questions G.2 - E.C.2.2 only (18 pages total).**
- Our **comments have been highlighted in yellow** for ease of identification
- We respectfully request the **questions in red** below the comments are considered by the ExA and/or asked of Applicant as appropriate
- As a general comment, we would like to take this opportunity to point out that the Applicant does not appear to have provided any independent evidence to support any of the statements it has made throughout its responses, unless such underlying third party documents have been specifically referred to by the ExA in its original questions, (e.g. Aviation National Policy Statements, (“NPS”). Any and all footnotes in this document are therefore provided by Five10Twelve Ltd as independent evidence to support our comments
- Comment or question (or lack of) does not mean agreement with or support for Applicant.

## **FIVE10TWELVE LTD STATEMENT REGARDING CONFLICT OF INTEREST AND IMPARTIALITY**

For the avoidance of any doubt and in the interests of full transparency, we hereby confirm that neither Five10Twelve Ltd or its subsidiary, Love Ramsgate Ltd, or any of our Directors have any interests, either financial or otherwise, in the Manston site or any other rival development beyond those of a local business and local residents with strong concerns regarding the devastating impacts of the proposed development on the local area, economy, environment and population.

Neither Five10Twelve Ltd, or Love Ramsgate Ltd, or any of our directors have accepted any payments or any other form of compensation or inducements for presenting this or any of our other submissions or representations to the ExA. Any offers or suggestions of such from any party will be refused and immediately reported to the ExA.

Ref No.	Respondent	Question
G.2 General and Cross-topic questions (including relevant planning policy)		
G.2.1	The Applicant  Thanet District Council (DC)	<p data-bbox="517 647 880 679"><b>Emerging Thanet Local Plan</b></p> <p data-bbox="517 715 1753 746"><b>What is the latest position concerning the examination of the draft Thanet DC Local Plan to 2031?</b></p> <p data-bbox="517 818 786 850">Applicant's Response:</p> <p data-bbox="517 890 2007 1145">The examination into the Thanet Local Plan to 2031 commenced on Tuesday 2nd April 2019. The latest examination programme (dated 28th March 2019) is attached at Appendix G.2.1 part A. The examination is scheduled for five weeks and is due to close on Friday 31st May 2019. Manston Airport is Matter 10 (Economic Development): Issue 7 - Manston Business Park and Manston Airport and was discussed on Wednesday 17th April 2019. The Inspectors issued Matters, Issues and Questions (MIQs) to be discussed at the examination (dated 4th March 2019 – please see Appendix G.2.1 part B). TDC's Matter 10 Statement and RSP's Matter 10 Statement are included at Appendix G.2.1 part C and they respond to the MIQs that the Local Plan Inspectors set in relation to Manston Airport.</p>

	<p>At the 17<sup>th</sup> April 2019 hearing session, the Inspector invited discussions from a number of parties including TDC, RSP and SHP. TDC reiterated their position on Manston Airport in the new Local Plan which is to remain 'neutral' and not to compromise the outcome of the DCO. TDC accepted that once the outcome of the DCO was known, that there would need to be a full review of the Local Plan to reflect the decision. TDC, RSP and the Inspector agreed that it would be premature at this stage to define the scope for that review and that this could only happen once the decision was known. The Inspector recommended that more work needed to be done to ensure that Manston Airport was properly addressed in the new Local Plan. He recommended that the new Local Plan needed to have a dedicated section that addressed spatial planning matters in relation to Manston Airport.</p> <p>In that section, text would need to be included to report the latest position with the DCO and the Council's position; the fact that</p>
--	--

Ref No.	Respondent	Question
		<p>a full review of the Local Plan would need to take place once the DCO decision was known (with dates set for that review); and a new 'contingency' policy needed to be drafted to direct how spatial planning matters at the airport will be addressed both in the event that the DCO is granted and if it is not granted. It was considered that this policy will provide certainty to all parties until the review of the Local Plan. TDC, RSP and SHP agreed to work on a form of wording for the new policy which will be shared to all interested parties participating in the Local Plan examination in advance of a further discussion planned for 31<sup>st</sup> May 2019. If at that time no agreement can be reached on the policy wording, the Local Plan Inspectors would make a recommendation in their report on the Local Plan and it would fall to TDC to either accept or refuse the recommendation.</p> <p>The Local Development Scheme (agreed 20th March 2019) states that adoption of the Thanet Local Plan to 2031 is expected in Spring 2020. TDC are required to provide for the completion of a review of their Local Plan, regardless of the outcome of the DCO within six months of its adoption in accordance with the Secretary of State's intervention letter dated 28th January 2019. This intervention requirement and the associated timescales allows for the Local Plan Review to reflect the outcome of the DCO.</p> <p><b>COMMENTS</b></p> <p>1. Since the Applicant submitted its response, it was confirmed by the Planning Inspectorate on 15/5/19 that the final two weeks of hearings, originally scheduled for 21-31 May, have been postponed until July with a confirmation of new dates</p>

		<p>TBC<sup>1</sup>.</p> <p>2. Jason and Samara Jones-Hall of Five10Twelve Ltd also made representations at the Local Plan Hearing session of 17th April 2019, along with several other members of the public and local businesses, and raised the point to the Examiner that the primary responsibility of TDC and the UK Planning Inspectorate, as a public body, is neither to RSP nor to SHP but to the public and local community. As such, we draw particular attention to the Applicant's comment regarding the <i>"form of wording for the new policy which will be shared to all interested parties participating in the Local Plan examination in advance of a further discussion"</i> and the need for an agreement to be reached as meaning public consultation and comment forms an integral part of any proposed new wording and/or agreement rather than this being a matter of agreement solely between RSP and SHP.</p>
G.2.2	<p>The Applicant</p> <p>Thanet DC</p> <p>Stone Hill Park Ltd</p>	<p><b>Stone Hill Park Planning Application</b></p> <p>Thanet DC's response to first written questions stated that the determination period for the application (OL/TH/18/0660) was extended to 31 March 2019, which has now passed.</p> <p><b>What is the latest position?</b></p> <p>Applicant's Response:</p> <p>TDC have extended the application's expiry date again. The new expiry date is 31<sup>st</sup> August 2019. TDC (Iain Livingstone) has confirmed in an email to RPS dated 27<sup>th</sup> March 2019 that the extension has been permitted to allow for further information on highways (running the proposals through KCC's strategic transportation model) and environmental matters and any potential revisions to Parameter Plans, Heads of Terms negotiations and reporting the application to Planning Committee. On 9<sup>th</sup> May 2019, it will have been a year since application OL/TH/18/0660 was validated. TDC have not disclosed what they consider to be</p>

<sup>1</sup> Appendix 001: Local Plan email from Annette Feeney

Ref No.	Respondent	Question
		missing from the application despite requests for this information, nor have they made any formal request for further information under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Ref No.	Respondent	Question
AQ.2 Air Quality and Emissions		
AQ.2.1	The Applicant	<p><b>Flight movements</b></p> <p>Table 6.15 of [APP-044] shows the mix of aircraft used in the air quality assessment.</p> <p><b>How does this relate to Appendix 3.3 [APP-044] used in the noise assessment?</b></p>

Applicant's Response:

Table 6.15 of Appendix 6.3 [APP-044] of the ES [APP-033] and Appendix 3.3 [APP-044] are aligned except on two points where the air quality assessment was not updated to take into account late changes in the forecast assumptions:

- Russian airlines: In the air quality assessment (Table 6.15 of Appendix 6.3 [APP-044]), these services were assumed to be operated by A330-200 (924 movements per year) and Antonov An-124 (308 movements per year) aircraft. This is not based on the latest forecast. The correct forecast is that used in the noise assessment and presented in Appendix 3.3 [APP-044], these services were assumed to be operated by B747-400 aircraft (1,232 movements per year).

As to the implications of this change to the air quality assessment, replacing the A330-200 and An-124 movements in the air quality assessment with B747-400 movements would increase annual mean NO<sub>2</sub> concentrations at relevant receptors by less than 0.1 µg m<sup>-3</sup> in all years, from 26.43 µg m<sup>-3</sup> at the worst-affected receptor in Year 20 to 26.46 µg m<sup>-3</sup> (against an objective level of 40 µg m<sup>-3</sup>). This difference does not affect the conclusions of the assessment.

- Light aircraft (General Aviation) are not included in Appendix 3.3 [APP-044] as they make a relatively minor contribution both in noise and air quality terms. Nonetheless these aircraft have been included in both the noise and air quality models. The air quality assessment includes 38,000 movements per year from light aircraft (Piper PA28 and PA34 aircraft). A cap on general aviation movements is included in the Noise Mitigation Plan (NMP) [APP-009].

**COMMENTS AND QUESTIONS**

**Q1.** What is the source of the Applicant's statement that "replacing the A330-200 and An-124 movements in the air quality assessment with B747-400 movements would increase annual mean NO<sub>2</sub> concentrations at relevant receptors by less than 0.1 µg m<sup>-3</sup> in all years, from 26.43 µg m<sup>-3</sup> at the worst-affected receptor in Year 20 to 26.46 µg m<sup>-3</sup> (against an objective level of 40 µg m<sup>-3</sup>)? Can the Applicant support this statement with any evidence?

**Q2.** What is the source of the Applicant's conclusion that "This difference does not affect the conclusions of the assessment"? Has Public Health England and/or other statutory bodies or other Interested Parties been properly consulted on this change in details and revised statement?

		<p><b>Q3.</b> Can the Applicant provide independent verification to support its claim that the proposed 38,000 Light Aircraft movements per year “make a relatively minor contribution both in noise and air quality terms”?</p> <p><b>Q4.</b> The Applicant confirms that “the air quality assessment includes 38,000 movements per year from light aircraft” but has not specified how many Light Aircraft movements have been included in the noise contour models. Can the Applicant confirm how many light aircraft movements were included in these models, given that Nick Hilton of Wood confirmed during the Issue Specific Hearing of 21/3/19 (Need and Operations) at approximately 2pm that “the Fleet Mix in Appendix 3.3 forms the basis of all forecasts in the EIS” and this Fleet Mix does not include any General Aviation or Light Aircraft?</p> <p><b>Q5.</b> Why are only Piper PA28 and PA34 aircraft specified in the Applicant’s response when General Aviation in most other airports - including East Midlands Airport, for example, which the Applicant has formerly cited as its nearest comparison - more commonly includes a range of Single Propellor, Small Twin Piston, Small Twin Turboprops and Executive Jets under General Aviation?</p> <p><b>Q6.</b> Executive/ business jets are listed in the Azimuth report as a potential revenue stream and it is our understanding part of the works are dedicated to this revenue stream; however, the noise and air pollution has not been assessed.</p> <p><b>Q7.</b> We note the Applicant’s answer with regard to the Antonov An-124; however, we note that the Antonov An-124 (amongst many other non 747-400 aircraft) are appended to the Applicant’s most recent noise mitigation plan <b>REP6-022</b>.</p>
--	--	---

Ref No.	Respondent	Question

AQ.2.2	The Applicant	<p><b>Revised Traffic Assessment submitted at Deadline 5</b></p> <p>The Applicant has set out that an addendum to the Environmental Statement (ES) [APP-033] Chapter 6 Air Quality be produced at Deadline 6.</p> <p><b>The ExA requires that this is submitted and any consequential changes to the ES be also considered and submitted at this deadline.</b></p> <p>Applicant's Response:</p> <p>An addendum to Chapter 6 the ES [APP-033] which addresses consequential changes from the revised traffic assessment has been submitted at Deadline 6 (document reference TR020002/D6/ESA).</p> <p><b>COMMENTS AND QUESTIONS</b></p> <p><b>Q1. To what extent do the post-application revisions in this addendum constitute a material change?</b></p> <p><b>Q2. What opportunities have affected communities, individuals, businesses, public and statutory bodies and/or other Interested Parties had to be consulted upon the impacts and implications of these revisions?</b></p>
AQ.2.3	The Applicant	<p><b>Worst Case Scenario Air Quality Assessment</b></p> <p>The Applicant in response to the ExAs first written question AQ 1.18 stated:</p> <p>“it is now adding an annual limit of ATMs equivalent to the number assessed in the ES, namely, 17,170 cargo plus 9,298 passenger movements, i.e. 26,468 movements in total. This cap has been included in the revised Noise Mitigation Plan (TR020002/D3/2.4) being submitted at Deadline 3. This total includes the movements generated by the 3 recycling stands but does not include general aviation movements.”</p>





Ref No.	Respondent	Question
		<p data-bbox="517 336 1778 363">How many General Aviation movements were modelled in the air quality assessment in the ES [APP-033]?</p> <p data-bbox="517 443 786 470">Applicant's Response:</p> <p data-bbox="517 515 1861 542">The air quality assessment includes 38,000 movements per year from light aircraft (Piper PA28 and PA34 aircraft).</p> <p data-bbox="517 611 904 638">COMMENTS AND QUESTIONS</p> <p data-bbox="506 683 2007 826"><b>Q1.</b> The ExA quotes the Applicant's response in its answers to the first written question AQ.1.18 as stating the number of ATMS assessed in the ES <i>"includes the movements generated by the 3 recycling stands but does not include general aviation movements."</i> This is at odds with the Applicant's response to AQ.2.1 in these Second Written Question,s above, that Light Aircraft/General Aviation <i>"have been included in both the noise and air quality models"</i>. Which is correct?</p> <p data-bbox="506 890 2007 1034"><b>Q2.</b> Why are only Piper PA28 and PA34 aircraft specified in the Applicant's response when General Aviation in most other airports - including East Midlands Airport, for example, which the Applicant has formerly cited as its nearest comparison - more commonly includes a range of Single Propellor, Small Twin Piston, Small Twin Turboprops and Executive Jets under General Aviation?</p>

AQ.2.4	The Applicant	<p><b>NOx emissions</b></p> <p>ES paragraph 6.1.6 [APP-033] explains that emissions from road traffic cannot be incorporated into contour plots. Consequently, emissions are higher at roadside locations than shown. The ES explains that road traffic concentrations have been included in the assessment of specific receptors with relevant exposure. The ES goes onto state that:</p> <p>“For similar reasons, it has not been possible to include the contribution from road traffic in the ecological assessment of daily mean NOx.”</p> <p>Natural England in their Deadline 5 SoCG state at paragraph 5.1.3:</p> <p>“5.1.3 Natural England raised the following points on air quality: (a) Annual mean NOx for all the years modelled is above the level for ‘insignificance’ at some locations and is not adequately addressed in the biodiversity chapter of the ES”</p> <p><b>i. Will the Deadline 6 assessment of NOx include road traffic NOx emissions?</b></p> <p><b>ii. If not, show how this represents a worst case assessment in air quality terms.</b></p> <p>Applicant’s Response:</p>
--------	---------------	--

Ref No.	Respondent	Question
		<p>i. Yes. The addendum to Chapter 6 of the ES [APP-033] that has been submitted at Deadline 6 includes an assessment of road traffic contribution to annual mean and daily mean NO<sub>x</sub> concentrations (document reference TR020002/D6/ESA).</p> <p>ii. Not applicable.</p> <p><b>COMMENTS AND QUESTIONS</b></p> <p><b>Q1. To what extent do the post-application revisions in this addendum constitute a material change?</b></p> <p><b>Q2. What opportunities have affected communities, individuals, businesses, public and statutory bodies - including Natural England and Public Health England - and/or other Interested Parties had to be consulted upon the impacts and implications of these revisions?</b></p>
AQ.2.5	The Applicant	<p><b>Thanet Air Quality Management Area (AQMA)</b></p> <p><b>In preparing updated air quality assessment material following release of the revised transport assessment, state whether there are any exceedance of air quality objectives within Thanet AQMA?</b></p> <hr/> <p>Applicant's Response:</p> <p>No exceedances of any air quality objectives for human health are forecast within the Thanet AQMA or at any other modelled receptor location, in any of the modelled scenarios. Further detail on this can be located in the addendum to Chapter 6 of the ES [APP-033] that has been submitted at Deadline 6 (document reference TR020002/D6/ESA).</p>

AQ.2.6	The Applicant	<p><b>Register of Environmental Actions and Commitments (REAC)</b></p> <p>The Updated REAC references 'Bans on older dirtier aircraft'.</p> <p><b>i. Confirm what aircraft would be banned and how this ban would be applied.</b></p> <p><b>ii. Show where this is secured in the draft DCO.</b></p>
		Applicant's Response:

Ref No.	Respondent	Question
		<p>i. The International Civil Aviation Organisation (ICAO) have developed a CO<sub>2</sub> standard for aircraft with the support of the Committee on Aviation Environmental Protection (CAEP). This Standard is one of a number of elements aimed at tackling the impact of international aviation on climate change. Compliance with these requirements will become a pre-requisite for the issuance of an aircraft or aircraft engine EASA Type Certificate, which is required to operate aircraft. The standard will be applicable as of 2020.</p> <p>ii. Given that compliance will be a pre-requisite for certification this does not need to be secured in the DCO.</p> <p><b>COMMENTS AND QUESTIONS</b></p> <p>1. The Applicant has again failed to provide any supporting evidence, details or other verifiable information to support its claims that <i>"Bans on older, dirtier aircraft"</i> will be covered and regulated under the unspecified regulations and requirements of EASA Certification. As such, it appears the ExA and Interested Parties are expected to take the Applicant's word as guarantee, which it appears unwilling to support by offering any comfort whatsoever in the DCO.</p> <p>2. It is our understanding that EASA Certification applies to new aircraft off the production line and/or to importing of aircraft by aircraft operators, (as opposed to airport operators), and/or to operators in EU regulated territories since EASA has no jurisdiction over non-EU operators. As such, the Applicant's response is, at best, incomplete and non-specific and, at</p>

		<p>worst, disingenuous and misleading.</p> <p>Q1: Can the Applicant confirm, with evidence and reference to the specific EU and/or ICAO and/or CAEP regulations, whether EASA certification is a requirement for older aircraft currently in operation?</p> <p>Q2: In such cases, how often must older aircraft undergo re-certification and/or what are the requirements and timescales involved in certifying ongoing airworthiness?</p> <p>Q3: Does EASA have any jurisdiction over aircraft originating in non-EU territories? If not, how will this be regulated?</p> <p>Q4: What environmental restrictions and safeguards apply to European airport operators when accepting and scheduling flights from non-EU territories?</p> <p>Q5: What are the implications of Brexit on the proposed route of regulation and "banning of older dirtier aircraft" via EASA Certification?</p> <p>Q5: Is there any reason why this ban should not also be secured in the DCO, irrespective of any third party regulation?</p> <p>Q6: How does the Applicant define "older dirtier aircraft"?</p>

		<p>Applicant's Response:</p> <p>i. The modelling assumes that the GSE fleet is all diesel in Year 2 and Year 6, and fully electric (zero emission) in Year 20, as described in Appendix 6.3 [APP-044] of the ES [APP-033]. The amount of GSE activity (i.e. the number of equipment items and their operational hours) is assumed to be proportional to the amount of aircraft activity in each year (where aircraft activity is measured as the aircraft maximum take-off weight summed over all movements in the year). It is acknowledged that there will be a gradual shift to GSE between Year 6 and Year 20, however for the reasons outlined in 'ii' below, a reasonable worst-case has been adopted for the purposes of the air quality assessment, with no electric GSE assumed in Years 2 and 6. As noted</p>
--	--	---

Ref No.	Respondent	Question
		<p>above, no exceedances of air quality objectives for human health are forecast at any locations in any assessment year, even when assuming the fleet remains diesel for a substantial period of operation.</p> <p>ii. Although electric airport GSE is becoming available, it cannot be guaranteed either that all required equipment types will be available in suitable electric models, or that sufficient units will become available for purchase (given demand from other airports with more substantial air quality issues), during the early years of operation of the Proposed Development. Consequently, the assumption has been made that no electric GSE is available until after Year 6. Nonetheless, GSE manufacturers are increasingly shifting production towards electric models and as such it is reasonable to assume that by Year 20 it will have been possible to obtain sufficient vehicles to allow a fully electric GSE fleet.</p> <p>iii. The assessment of likely significant effects within Chapter 6 of the ES [APP-033] has not over-represented the beneficial effect of GSE in Year 2 and Year 6 of operation as no electric fleet has been assumed in these years. The modelling assumes that the GSE fleet is all diesel in Year 2 and Year 6 (as described in Appendix 6.3 [APP-044] of the ES [APP-033]), which is considered to be a conservative assumption for the purposes of the air quality assessment.</p>

Ref No.	Respondent	Question
Ec.2 Biodiversity, Ecology and Biodiversity (including Habitats Regulations Assessment) (HRA))		
Ec.2.1	The Applicant	<p><b>Revised Noise and Air Quality Assessment for Deadline 6</b></p> <p><b>State whether an addendum will be produced to the Ecology ES chapter [APP-033] to reflect the updated Noise and Air Quality outputs at Deadline 6?</b></p> <p><b>The ExA requests that should this be submitted and that any consequential changes should also be considered and submitted at this deadline.</b></p> <p>Applicant's Response:</p> <p>An addendum to the Environmental Statement (ES) [APP-033, 034, 035] has been submitted at Deadline 6 TR20002/D65.2.6 which considers any changes to the potential effects reported in the ES resulting from the use of the Kent County Council (KCC) Thanet Strategic Transport Model (TSTM), including the revised noise and air quality modelling. This work concludes that there are not any changes to the significant impacts reported in Chapter 7 of the ES [APP-033].</p>
Ec.2.2	The Applicant	<p><b>Ecological surveys</b></p> <p><b>What is the current status of the outstanding ecological surveys?</b></p>



Ref No.	Respondent	Question
		<p>Applicant's Response:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>Q1. As part of the Examination the Applicant promised that Ecological Surveys on--site would be provided to the Examining Authority and Interested Parties for comment or challenge in its letter of 18 January 2019 [REP1-001] at paragraph 1 it stated</b></p>

*"Enclosure 1: A timeline for the provision of the outstanding ecological survey data required to confirm the worst case ecological impact assessment, in response to the request on page F1 of the Rule 6 letter issued by the ExA on 11 December 2018 ('Rule 6 letter'). This is consistent with the oral update provided to the ExA at the Preliminary Meeting held on 9 January 2019. As requested by the ExA at the Issue Specific Hearing into the draft DCO ('dDCO') held on 10 January 2019, this document also includes a statement confirming the optimal period for the surveys being undertaken".*

Applicant is now requesting the Examining Authority to make a determination without having access to these very surveys promised by the Applicant and without the Applicant being able to make this material publicly available for comment or challenge.