

**DEADLINE 7A SUBMISSION**

**STONE HILL PARK LTD – RESPONSE TO EXA’S THIRD WRITTEN QUESTIONS**

**PINS APPLICATION REFERENCE: TR020002**

Responses are provided to all written questions directed to Stone Hill Park Ltd (“SHP”). SHP has also commented on a limited number of the questions directed at the Applicant, and would anticipate that it will be required to provide further comments on the Applicant’s responses (by Deadline 8).

Question	Question to:	Question / SHP Response
CA.3.6	The Applicant	<p data-bbox="712 580 1267 612"><b>Crown Land: High Resolution Direction Finder</b></p> <p data-bbox="712 654 2020 791">Given your response to question CA.2.4, that no alternative site for the High Resolution Direction Finder (HRDF) has been agreed with the Ministry of Defence (HRDF), show why the ExA’s should not consider that this position should be classified as being a potential risk or impediments to implementation of the scheme that has not been properly managed.</p> <p data-bbox="712 836 882 868"><u>SHP Response</u></p> <p data-bbox="712 909 2020 1008">In its DL7 submission (Comments on the Applicant's Response to ExA's Second Written Questions [REP7-reference to be allocated]), SHP explained in its comments on question OP.2.6 how the issue with the HRDF Beacon would be a material risk and impediment to the implementation of the Applicant’s scheme.</p> <p data-bbox="712 1050 1375 1082">For ease, an overview of the position is provided below.</p> <ul data-bbox="712 1114 2020 1391" style="list-style-type: none"><li data-bbox="712 1114 2020 1251">• It is important to note that there is a safeguarding area around the beacon, which places restrictions on development. Firstly, no development is permitted within a 120 metre radius. Thereafter, a 1 in 25 slope is safeguarded (i.e. a 10m building would need to be located at least a further 250m from the HRDF Beacon i.e. 370m).</li><li data-bbox="712 1292 2020 1391">• Whilst the Applicant appears to have remained silent on the issue, the failure to relocate the HRDF Beacon would be a material impediment to the implementation of the Applicant’s proposed masterplan, due to a significant amount of development being located within the safeguarded zone.</li></ul>

Question	Question to:	Question / SHP Response
		<ul style="list-style-type: none"> <li>• 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)). However, based on the Applicant’s Masterplan [APP-079], all the proposed Works No. 1 buildings appear to be located within the safeguarded area.</li> <li>• At the CA Hearing held on 20 March 2019, Mr Boulden (or the DIO) was asked by Mr MacDonald (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 Boulden confirmed that a period of 2 years has been discussed 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 from 1:20:40 of recording 2 of the CA Hearing.</li> <li>• As a consequence, this would imply that construction of Works No. 1 (within the current safeguarding area) could not commence until 2 years <b>after</b> the new HRDF Beacon is in place, is operational and it has been proven that there is no degradation in the level of technical performance.</li> <li>• Assuming a 12 month construction period for Works No. 1 (i.e. a start date of January 2021) and the DIO maintains its position on the required 2-year “overlap”, the new HRDF Beacon would need to have been operational by December 2018. Otherwise, the Applicant’s programme of completing development by January 2022 is not achievable even ignoring all the other issues, risks and impediments with the Applicant’s proposals.</li> <li>• 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 zones that are required). Even assuming all these issues could be addressed, it is not clear how a new HRDF Beacon could be operational before the latter part of 2020, resulting in at least a c.2 year delay.</li> <li>• This would also require the Applicant to fully fund the costs of the relocation well before any final decision was made on the DCO. <b>The implication is that the costs of such relocation must be addressed in the Funding Statement</b>, alongside a realistic amount for the costs of compulsory acquisition of land and noise mitigation.</li> </ul>

Question	Question to:	Question / SHP Response
		<ul style="list-style-type: none"> <li>It is clear that the HRDF Beacon issue is one that should have been addressed prior to the Application being submitted. However, after failing to do so, the Applicant is now minimising and glossing over the fact that this issue is a material risk and impediment to the implementation of its scheme, and particularly within the timetable it has suggested.</li> </ul>
CA.3.22	The Applicant All Parties to NOTE	<p><b>Associated Development</b></p> <p>One of the arguments put forward by the Applicant in its response to CA.2.20 [REP6-index number to be allocated] is that:</p> <p><i>“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.”</i></p> <p>Taking into account the existence of a system of development control and management embodied in planning legislation and regulation and of policy making embodied, inter alia, in Local Plans and the National Planning Policy Framework, justify the assertion that this development is likely to arise [...] in a piecemeal and uncontrolled manner with a worse impact on the local area.</p> <p>All parties should note that the issue of associated development in the CA and Issue Specific Hearings to be held from 3 to 7 June 2019</p> <p><u>SHP Response</u></p> <p>SHP would note that the Applicant has consistently failed to provide the examination with the explanation and justification of the Works that form the NSIP development and the Works that comprise Associated Development, despite the request made by the ExA and the commitment given by the Applicant at the dDCO hearing held on 10 January 2019.</p> <p>SHP have set out the relevant issues that need to be addressed in its multiple submissions to the examination on this matter.</p>

Question	Question to:	Question / SHP Response
		<p>In addition to its failure to adhere to the request of the ExA made on 10 January 2019, the Applicant has not adequately responded to SHP's evidence, or indeed the ExA's questions, and its submissions have often been incomplete and contradictory.</p> <p>The upcoming hearings will be held 5 months into a 6 month examination phase and SHP would note that any attempt to introduce new evidence orally during these hearings would be unfair and would add to the serious concerns which already expressed about the legitimacy, legality and fairness of the Applicant's application and its examination.</p>
CA.3.29	Stone Hill Park Limited	<p><b>Acquiring by voluntary agreement: Stone Hill Park Limited</b></p> <p>Comment on the statement in the Applicant's response to CA.2.25 [REP6-index number to be allocated] that the Applicant is hopeful that these negotiations [between the Applicant and SHP] can be concluded satisfactorily shortly.</p> <p><u>SHP Response</u></p> <p>It is not possible to reconcile the inaction of the Applicant with the statement that it <i>"is hopeful that these negotiations can be concluded satisfactorily shortly"</i>.</p> <p>For background on the engagement between the parties, SHP would refer the ExA to the evidence it has submitted to the examination to date, including the detailed responses to question CA.2.17 [REP6-053] and question CA.1.17 [REP3-303].</p> <p>As noted in the response to CA.2.17, it remains SHP's strongly held view that the Applicant is not serious in its intentions and that its sporadic engagement with SHP is simply a tactic to allow it to maintain a pretence with the Examining Authority that it is making meaningful attempts to negotiate to acquire SHP's land. SHP further explained that the Applicant had continually failed to honour "commitments" made to SHP and pointed to the evidence showing engagement from the Applicant tended to be timed around an impending deadline for DCO submissions or an examination hearing.</p> <p>In essence, the Applicant's efforts appear focussed on creating the illusion that it was making efforts, instead of taking any actions that could evidence real efforts were being made.</p>

Question	Question to:	Question / SHP Response
		<p>When the ExA's third written questions were published on 10 May 2019, it was clear to SHP that the Applicant would make some form of contact before Deadline 7a, which it could use to put a "spin" on its response to the ExA's question CA.3.30.</p> <p>It was therefore of no surprise that on 17 May 2019, 7 days before the relevant Deadline, RSP directors left messages with SHP requesting a call. The ExA should be aware that this was the first contact since 12 April 2019, the details of which are explained further below.</p> <p>In response to the message requesting a call, SHP sent an email to the Applicant on Monday 20 May 2019, an extract of which is shown below;</p> <p><i>"I am aware you and [REDACTED] have tried to contact [REDACTED] since Friday and have left a couple of messages. I am also aware we have had zero contact from you since 12<sup>th</sup> April and that RSP is required to provide evidence to the Examining Authority by the end of this week. As I have set out previously, the coincidence of communication between us relative to the DCO timetable is not lost on my shareholders. We are therefore not surprised to be contacted 7 days before RSP is required to provide evidence to the Examining Authority to substantiate the assertions made regarding negotiations with us.</i></p> <p><i>If the purpose of your contact is to now complete the offer you made to us under the structure agreed between us on 15<sup>th</sup>/16<sup>th</sup> January then please write to me outlining how this will be achieved and when.</i></p> <p><i>If however, as we suspect, the purpose is to continue spinning a false narrative to the Examining Authority about the status of discussions between us then, as outlined previously in my email to you of 12<sup>th</sup> April, we wish no further involvement and it will be for the Examiner to determine the outcome."</i></p> <p>The tenor of SHP's email of 20 May 2019 is consistent with the email SHP sent to the Applicant on 12 April 2019, which, inter alia, expressed SHP's frustrations with the Applicant's lack of engagement and transparency, its view that the Applicant was not serious in its intentions and the failure of the Applicant to honour its previous commitments.</p> <p>SHP's email of 12 April precipitated the call with Mr Freudmann of the same date.</p>

Question	Question to:	Question / SHP Response
		<p>As noted in SHP’s submission [REP6-053], Mr Freudmann committed to revert to SHP on 15 April. Consistent with past behaviour, neither Mr Freudmann nor anyone related to the Applicant did so. Indeed the next contact was the message of 17 May 2019 referred to above. Yet, the Applicant has asserted to the ExA that discussions “<i>continue to take place</i>”, despite there being no substantive discussions in recent months.</p> <p>The point that is being highlighted is that, over the last 2 years, the Applicant’s actions have consistently failed to match their words (i.e. the Applicant’s assertions to the Inspectorate / ExA). The Applicant appears completely untroubled by this, demonstrating the lack of respect the Applicant has shown to this process and those taking part in it.</p> <p>SHP expect the Applicant will respond to SHP’s email of 20 May 2019, but has no confidence that the response will be anything other than an attempt to distract both the ExA and SHP from the Applicant’s abject failure to comply with the DCLG Guidance related to procedures for the compulsory acquisition of land (2013).</p> <p>The Applicant’s failures to comply with the DCLG Guidance have been set out extensively in SHP’s previous submissions, and are not repeated here. However, we would refer the ExA to SHP’s Written Summary of Oral Submissions put at the Compulsory Acquisition Hearing [REP5-031] and SHP’s Written Summary of Oral Submissions put at the Need &amp; Operations Hearing [REP5-029], which demonstrate the Applicant’s failure to comply adequately, or at all, with paragraphs 8, 9, 12, 13, 17, 18, 19, 25 and 31 of the relevant DCLG Guidance.</p>
DCO.3.1	All parties to NOTE	<p>The ExA has published its draft DCO alongside these questions. All Interested Parties and Affected Persons are requested to provide comments on the ExA’s draft DCO. The specific questions below address particular parts of that draft but should not be taken as precluding further examination of any part of the draft DCO in particular at the DCO ISH to be held on 7 June 2019 The questions below also seek clarification on matters related to the dDCO raised in the responses received at DL6.</p> <p><u>SHP Response</u></p> <p>SHP would respectfully note that it provided comments on the Applicant’s third revised draft DCO and the ExA’s draft DCO in its Deadline 7 submissions [REP7-reference to be allocated].</p> <p>In its submission, SHP noted that;</p>

Question	Question to:	Question / SHP Response
		<ul style="list-style-type: none"> <li>• other than the Applicant’s proposed change to the time limit from “5 years” to “one year”, SHP’s comments have not been reflected in either of the revised draft documents.</li> <li>• the evidence that has been added to throughout the examination only serves to provide further justification for the required changes proposed by SHP in its previous submissions, references to which are provided;</li> <li>• in Annex 1 of its Deadline 7 submission (SHP’s comments on the Applicant’s answers to second written questions), SHP has provided a number of comments that are directly relevant to the dDCO and further support the submissions made by SHP.</li> </ul>
DCO.3.2	All parties to NOTE	<p>All parties should note that the issue of associated development including, but not limited to, the definition of “airport-related” and of “Associated development” will be examined further in the CA and Issue Specific Hearings to be held from 3 to 7 June 2019.</p> <p><u>SHP Response</u></p> <p>SHP understands that this issue is of direct relevance to both the dDCO hearing and CA hearing, however SHP considers it to be of most relevance to the Applicant’s CA case.</p> <p>As set out in its previous submissions, SHP has submitted the evidence before the examination regarding the applicability of the Applicant’s claimed associated development has largely been provided by SHP. Therefore, in so far as it is possible, SHP would request that the issue of associated development is fully covered in the CA hearing on 4 June 2019.</p>
DCO.3.3	All parties to NOTE	<p>All parties should note that the issue of the proposed application of the ‘Crichel Down Rules’ in Article 19 and the reduction from five to one year in Article 21 will be examined further in the CA and/or the DCO Issue Specific Hearing to be held on 4 and 7 June 2019</p>

		<p><u>SHP Response</u></p> <p>SHP understands that this issue is of direct relevance to both the dDCO hearing and CA hearing, however SHP considers it to be of most relevance to the Applicant's CA case.</p> <p>Therefore, in so far as it is possible, SHP would request that the changes to Article 19 proposed by SHP are dealt with in the CA hearing on 4 June 2019.</p>
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DCO.3.5	All parties to NOTE	<p>All parties should note that the issue of the Guarantees in respect of payment of compensation, etc (Article 9) will be examined further in the CA and/or the DCO Issue Specific Hearing to be held on 4 and 7 June 2019.</p>
		<p><u>SHP Response</u></p> <p>In so far as it is possible, SHP would request that the CA articles are examined in the CA hearing on 4 June 2019.</p>

OP.3.3	Stone Hill Park Limited	<p><u>Aerodrome Certificate</u></p> <p>The Applicant agrees that the aerodrome certificate could only be applied for once the land required was in their ownership but consider that once applied for it would take 6-12 months for the CAA to consider such an application.</p> <p>Comment on this viewpoint.</p>
		<p><u>SHP Response</u></p> <p>SHP consider the Applicant's assertion that it would take 6-12 months for the CAA to consider an application for a CAA Aerodrome Certificate to be reasonable. However, it is important to note that the application could not be in a form that would be ready to submit at the point any required land passed into the Applicant's</p>

		<p>ownership. A significant amount of work requires to be carried out to inform and support the preparation of the application, a large part of which could only be done after the Applicant had control of the land?</p> <p>In its answer to question OP.2.1 [REP6-012], the Applicant stated;</p> <p><i>“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.”</i></p> <p>The question that must be addressed by the Applicant is, what elements of the “evidence gathering phase” could only be advanced after the Applicant had ownership of the land.</p> <p>It is clear from the Applicant’s answer to OP.2.1 that it is attempting to imply that the CAA would fully engage in this “evidence gathering phase” well in advance of the Applicant having ownership of 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 is seeking further clarity from the CAA.</p> <p>SHP would further note that any CAA Aerodrome Certificate application would require to be informed by ground surveys, which could not be undertaken prior to the Applicant owning the land (other than with the agreement of SHP).</p> <p>In summary, SHP does not disagree with the comment <i>“that once applied for it would take 6-12 months for the CAA to consider such an application”</i>, however the Applicant must properly consider and provide justification as to when a completed application would be capable of being submitted to the CAA.</p>
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OP.3.5	The Applicant	<p>Programme</p> <p>Appendix OP.2.6 of the Applicant’s answers to the ExA’s Second Written Questions contains a construction programme assuming that access to site for surveys would commence 7 January 2020. This feeds into other activities, such as detailed design and airspace change and licence applications.</p> <p>i. Do you consider such a date and construction programme to be realistic?</p>
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		<p>ii. Does the programme take into account timing to acquire ownership/access to the land required, including potential judicial reviews if necessary?</p> <p>iii. Does the ES still assess the correct construction period?</p> <p><u>SHP Response</u></p> <p>Although SHP would propose to comment more fully on the Applicant’s answer to this question in due course, it has provided some initial comments below.</p> <p>i. The Applicant’s construction programme is wholly unrealistic for the reasons set out in SHP’s comments on the Applicant’s Answers to Written Question OP.2.6 [REP7-reference to be allocated]. Firstly, SHP would encourage the ExA to ask who has prepared the programme. Is it a person or entity that has professional reputation to maintain or is it a “guesstimate” by the Applicant?</p> <p>a. As explained in paragraphs 9.1 – 9.5 of SHP’s Written Summary of Oral Submissions put at the Need and Operation Hearing [REP5-029], including indicative timetable appended as Appendix NOPS.11.1, if a DCO was made it is unlikely that the Applicant could gain access to the site prior to mid-2021 until judicial review processes and associated appeals had fully run their course and the land could be acquired. This would knock the Applicant’s programme forward by 18 months.</p> <p>b. The survey works could not commence ahead of mid-2021. As the design works will require to be informed by the outcome of surveys (including archaeological surveys), it is also not clear how the outline design stage could be finalised before the surveys have been completed.</p> <p>c. The Applicant has completely ignored various impediments, including for example the HRDF Beacon. As noted above in SHP’s response to CA.3.6 above, it would appear that construction works on airside cargo facilities could not commence until the new HRDF Beacon had been operational for two years. <b>To fit in with the Applicant’s programme, this would require the Beacon to have been operational in December 2018.</b></p> <p>d. The Applicant’s programme is not credible and completely glosses over the monumental undertaking delivering its scheme would involve. Is it credible to accept that an Applicant which has no airport development experience and has shown itself to be completely unable to complete basic requirements of the DCO process (e.g. answer the ExA’s questions, undertake basic ecology</p>
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		<p>surveys), could complete the phase 1 development in the timescales it has suggested? SHP would also note that the Applicant has provided no evidence to support its assertions.</p> <p>ii. It is clear that the programme does not take into account timing to acquire ownership/access to the land required, including potential judicial reviews if necessary.</p> <p>iii. It is clear that the ES has not assessed the correct construction period.</p>
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OP.3.10	The Applicant	<p>Public Safety Zones (PSZs)</p> <p>Stone Hill Park [Answers to ExA’s Second Written Questions, reference not yet assigned, and REP4-067] state that PSZs would be expected by year 4 of the forecasts, when 1,500 ATMs are expected per month and when 2,500 ATMs are expected within 15 years. Appendix OP.2.7 is an Environmental Statement addendum concerning PSZs and states that PSZs would be required 15 years after opening at the earliest.</p> <p>i. Respond to the view that PSZs would need to be produced by year 4 of operation.</p> <p>ii. If PSZs are calculated based on airport specific forecasts 15 years ahead, would detailed work on such areas be required in advance of 15 years after opening?</p>
		<p><u>SHP Response</u></p> <p>SHP would note to the ExA that following its review of the answer provided by the Applicant to question OP.2.7 [REP6-012], SHP considered it necessary to address the misleading response from the Applicant.</p> <p>In commenting on the Applicant’s Answer to OP.2.7 in its DL7 submission [REP7-reference to be allocated], SHP included a table summarising the Applicant’s ATMs forecast and email correspondence from the DfT. These further demonstrated that the need for PSZs would be triggered in year 4.</p>

OP.3.11	The Applicant	<p>Public Safety Zones (PSZs)</p> <p>Appendix OP.2.7 is an Environmental Statement addendum concerning PSZs and states that PSZs would be required 15 years after opening at the earliest. This document provides a worst case scenario 1 in 100,000 PSZ for Manston Airport which covers a significant area of Ramsgate to the east of the Airport. The addendum notes that the principal feature of the 1 in 100,000 individual risk contour is that there will be no increase in the number of people living, working or congregating in the area</p> <p>Provide any viewpoints on the implications of this document and its contents to planning policy in Thanet.</p> <hr/> <p><u>SHP Response</u></p> <p>We look forward to reviewing the Applicant’s answer to this question.</p> <p>However, it is worth making a couple of observations. As set out in SHP’s comments on the Applicant’s Answer to OP.2.7 (ii) and (iii) in it DL7 submission [REP7-reference to be allocated], the assertions in the ES addendum regarding the requirements for PSZs are incorrect, and the PSZ contours (which are indicative only) may understate the PSZ requirements given the issues that would be specific to a cargo airport at Manston.</p>
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