

DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE

This submission provides my comments on the list of evidence that the Applicant points to under Capital Funding in its revised Funding Statement submitted at Deadline 7a. Specifically, the Applicant points to the following evidence base:

- a. The Joint Venture Agreement entered into between parties including RiverOak Strategic Partners Ltd (the Applicant) and M.I.O. Investments Ltd, varied to commit the latter to spending £15 million on land acquisition and noise mitigation (appended to REP5-011);
- b. The structure of the Applicant, its subsidiaries and parent company and the accounts of these where available (Appendices F.2.6, F.2.5,
- c. Information about the project's investors, their assets, expenditure on the project to date and their use of Business Investment Relief to invest in UK infrastructure (appended to REP5-011);
- d. Evidence that the Applicant has spent £12.8 million on pursuing the DCO application so far plus a further £2.4 million acquiring the 'Jentex' fuel farm (Appendices F.2.21 and F.2.7 in TR020002/D6/SWQ/Appendices respectively);
- e. A summary business model consisting of a 20-year operating income statement for the airport (Appendix F.1.5 at REP3-187);
- f. A capital expenditure budget for the project over 15 years (Appendix F.1.6 at REP3- 187);
- g. The rationale for estimating land acquisition costs together with costings for the expenditure in the Noise Mitigation Plan (answering questions F.1.8 and F.1.9 in REP3-195 respectively);
- h. Evidence that the Applicant has set aside £500,000 for any blight claims despite receiving advice that none would be payable (appended to REP5-011);
- i. Information about RiverOak Investment Corporation, the predecessor of RiverOak Strategic Partners (Appendix F.2.25 in TR020002/D6/SWQ/Appendices).

Taking each of these items in turn:

- a. The Joint Venture Agreement entered into between parties including RiverOak Strategic Partners Ltd (the Applicant) and M.I.O. Investments Ltd, varied to commit the latter to spending £15 million on land acquisition and noise mitigation (appended to REP5-011);

The Applicant states in its revised Funding Statement of 24 May 2019 (Capital Funding; para 12):

- RiverOak Investments (UK) Limited ("RIU") is a UK-registered company (Company No. 11959684) *whose ultimate beneficial owners are resident in Switzerland and the United Kingdom.*
- RIU is managed and administered by Helix Fiduciary AG ("Helix"), a Swiss registered and regulated fiduciary company on behalf of the beneficial owners.
- Helix also manages and controls all the investors' funds that provide the funding for the Manston DCO.
- RIU has the same directors as M.I.O Investments Ltd, a Belize registered company, who are the funders of the project.
- They are committed through a revised joint venture agreement (submitted as an appendix to REP5-011) to fund compulsory acquisition and noise mitigation required by the DCO as detailed in the summary below paragraph 29 of this statement (totalling £11,850,000, but in fact £15 million has been committed).

From Companies House the following can be seen regarding RIU.

Shareholders are:

- Nicholas Rothwell (Director). Swiss resident – 170 shares of £1 in RIU (17%)
- Rico Seitz (Director). Swiss resident – 170 shares of £1 in RIU (17%)
- Gerhard Kuno Huesler. Swiss resident – 60 shares of £1 in RIU (6%)
- HLX Nominees Ltd (Tortola Virgin Islands) – 600 shares of £1 in RIU (60%)

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This information suggests that any ultimate beneficial owners resident in the UK are ultimate beneficial owners in Helix Nominees Ltd who remain un-named to this ExA and whose agreement to invest in this project has yet to be evidenced. Based on % ownership of RIU it could be assumed that they are being relied upon to invest 60% of £15M; namely £9M with the remaining £6M being invested by the Swiss residents named above.

Turning to the revised joint venture agreement, it is a contract between the following Parties:

- RiverOak Strategic Partners Limited, and
- MIO Investments Limited

According to the above, the *directors* of MIO are the *directors* of RIU. In other words,

- Nicholas Rothwell (Director). Swiss resident – 170 shares of £1 in RIU (17%)
- Rico Seitz (Director). Swiss resident – 170 shares of £1 in RIU (17%)

Looking at the revised joint venture agreement, signatories are¹:

- For RSP: Niall Lawlor and Anthony Freudmann
- For MIO Investments: Nicholas Rothwell and Rico Seitz.

Proportionally, Lawlor and Rothwell account for 34% of £11.85M, which is £4.03M; with a liability to increase this to 34% of £15M, which is £5.1M².

The Applicant has stated at various points in this investigation including at the CA Hearing in March 2019 that Helix manages the client account bank accounts in which ultimate beneficial owners' funds are held. This does not give Helix a legal right to liquidate and spend the ultimate beneficial owners' short term investments and capital.

How does the Varied JV Agreement provide evidence of a legal commitment from the ultimate beneficial owners to fund £15M for this project when at least £7M-£10M (66% of £11.85M - £15M) will be required from ultimate beneficial owners who are not party to this agreement?

As an aside, why was the JV Variation, dated 29 March 2019, written between MIO Investments Ltd when the Applicant was in the process of restructuring its investment companies to a UK based investment company to assure a greater level of transparency? The restructure was near completion at the date of signature of the JV Variation, as evidenced by the incorporation date of RiverOak Investments UK Limited (RIU), 24 April 2019.

Would it be fair to conclude that there has been no material restructure of the Applicant's investment companies; simply the introduction of another shell company to the existing suite of shell companies to further obscure its financial and investment positions?

- b.** The structure of the Applicant, its subsidiaries and parent company and the accounts of these where available (Appendices F.2.6, F.2.5,

It is quite frankly laughable that the Applicant cite the above as evidence in its Funding Statement. The Applicant network of companies includes:

- MIO Investment Limited. No accounts or draft accounts provided

¹ NB: Helix Fiduciary (AG) which operates the ultimate beneficiaries bank accounts are not signatories to the JV. Nor are HLX Nominees Ltd (Tortola Virgin Islands) who are the named investors in RIU. Rather, another third company, Helix Directors Limited is named on the JV as a director for MIO Investments Limited. Helix Directors Limited do not operate the ultimate beneficial owners' bank accounts.

² Calculation based on their RIU shareholdings (in the absence of transparency of MIO Investment shareholding information; no information provided by the Applicant to bring transparency to MIO Investments Ltd; and Applicant assurance that restructuring would see MIO Investments Ltd (a Belize based company) replaced by UK Investment company, RIU to address precisely these sorts of transparency issues)

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- RiverOak Investments (UK) Limited. Newly incorporated. No accounts
- RiverOak Manston Limited. Dormant accounts filed for 2017, 2018 & 2019. Amended accounts for a dormant company filed 16 May 2019. Accounts do not reflect JV Agreement
- RiverOak Strategic Partners Limited. Dormant accounts filed for 2017 & 2018. Amended accounts for a dormant company filed 15 May 2019. Accounts do not reflect JV Agreement
- RiverOak Operations Limited. Unaudited total exemption full accounts filed for 2017. 2018 accounts due 31/05. No draft accounts provided
- RiverOak Fuels Limited. Incorporated Aug 2018. No accounts or draft accounts provided
- RiverOak AL Limited. Unaudited accounts filed for 2017. 2018 accounts due 22/07. No draft accounts provided
- RiverOak MSE Limited. Incorporated Dec 2018. No accounts
- Helix Fiduciary (AG). No accounts provided
- Helix Nominees Ltd (Tortola Virgin Islands). No accounts provided

The accounts and the financial position recorded against Manston Operations Limited's 2017 accounts raise serious questions:

- 1. Where are the financial flows indicated in the Joint Venture Agreement(s) reported on the relevant company accounts (e.g. RiverOak Strategic Partners Ltd)?**
- 2. Where can the ExA, SoS and other Affected and Interested Parties find assurance in the relevant company accounts that the relevant Applicant companies can deliver their legal obligations under the JV?**
- 3. Where is the Applicant company financial information evidenced, that can be relied upon to demonstrate the Applicant's financial strength to deliver a project of NSIP scale, or its ability to cover the costs of compulsory purchase of land & rights of in-scope plots plus noise mitigation requirements.**

Thus far the Applicant's accounts demonstrate the complete inadequacy of the Applicant companies' financial position for a project of this scale and socio-economic and environmental impact.

- c. Information about the project's investors, their assets, expenditure on the project to date and their use of Business Investment Relief to invest in UK infrastructure (appended to REP5-011);

Once again the Applicant is misleading the Examination and Secretary of State in making the above statement. The project's investor information has not been provided in full. The majority investor (66%) names are redacted by the Applicant (see Helix letter, below); are not present in the PwC letter; are not present in the Joint Venture Agreement(s); are not present in the BDB Pittman attestation letter; are not present in the HMRC 'opinion' letters; are not named in the FootAnstey letter.

The Applicant is relying on named investors Nicholas Rothwell; Rico Seitz; and Gerhard Kuno Huesler. Combined they appear to account for 40% of the investment as demonstrated above. This is based on their RIU shareholdings (in the absence of transparency of MIO Investment shareholding information and no information provided by the Applicant to bring transparency to MIO Investments Ltd). Their contribution to this Project may be significantly less.

The statement on use of Business Investment Relief is also misleading.

Where has the Applicant provided evidence of *use* of BIR? Where has the Applicant provided evidence from tax returns? Evidence of white notes? Evidence from HMRC stating that BIR has been used and approved?

HMRC in its opinion letter (which is dated 01 December 2016; prior to the JV of 15 December 2016) states, "

- 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.
- This opinion is given on the basis of the legislation in force at the date of this letter. It may not apply if there are any changes to that legislation in the future.

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Where has the Applicant provided recent evidence of HMRC approval to use BIR in light of the two year rule, which applies to investments made before April 2017 and therefore applies to Applicant's investments as relied upon in the JV Agreement of December 2016?

What is the likelihood of these investments passing the BIR two year rule in view of RSP's 2017 & 2018 dormant accounts, and the duration of this examination which runs to December 2019 which will prevent RSP from trading before 2020?

Two year start up rule

Before 6 April 2017 if you invested in a target company that hadn't started trading, to meet [Condition A](#) for BIR the company:

- must start trading within 2 years of the investment being made
- must not become non-operational after the end of the 2 year period

From 6 April 2017 the start-up period has been extended to 5 years for both trading purposes and if a company becomes non-operational. The investment must be made on or after 6 April 2017.

For investments made before 6 April 2017 the 2 year start-up condition will continue to apply.

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Condition B

Condition B is met when you've been UK resident for at least 15 of the 20 tax years immediately before the relevant tax year.

 Companies House

AP01 (ef)

Appointment of Director



Company Name: RIVEROAK STRATEGIC PARTNERS LIMITED

Company Number: 10269461

Received for filing in Electronic Format on the: 09/12/2016

New Appointment Details

Date of Appointment: 09/12/2016

Name: GERHARD HUESLER

The company confirms that the person named has consented to act as a director.

Service Address: 21 VIA SUOT CRASTA
CELERINA
SWITZERLAND
CH 7505

Country/State Usually Resident: SWITZERLAND

Date of Birth: **/10/1960

Nationality: SWISS

Occupation: BANKING

Company Director 1

Type: Person

Full Forename(s): NICHOLAS

Surname: ROTHWELL

Service Address: recorded as Company's registered office

Country/State Usually Resident: SWITZERLAND

Date of Birth: **/05/1966

Nationality: BRITISH

Occupation: DIRECTOR

The subscribers confirm that the person named has consented to act as a director.

Company Director 2

Type: Person

Full Forename(s): RICO

Surname: SEITZ

Service Address: recorded as Company's registered office

Country/State Usually Resident: SWITZERLAND

Date of Birth: **/12/1971

Nationality: SWISS

Occupation: DIRECTOR

The subscribers confirm that the person named has consented to act as a director.

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HM Planning Inspectorate
Bristol
United Kingdom

25th March, 2019

Dear Sirs,

With reference to the hearing regarding the funding of the Manston DCO project that took place on the 20th March 2019 I am writing to clarify certain matters and to give an update on statements made earlier.

In my letter dated 12.7.18 addressed to yourselves I referred to approaching HMRC on a named basis for the UK resident investors, to utilise non UK earned income for Business Investment Relief purposes¹. In this regard I have attached to this letter 3 confirmations received from HMRC dated 1 December 2016 accepting our proposed use of the UK resident shareholders' funds. This is to ensure to the Inspectorate that our UK investors, Mr XXXXXX, Mr XXXXXXXXXX and Mr. XXXXXXXXXX are reporting all funds that they are investing into the project on their personal tax returns to HMRC². The other significant investors are Swiss resident, being myself, Mr. Rico Seitz and Mr. Gerhard Huesler who are directors on the board of RiverOak Strategic Partners Limited "RSP" which I stated and alluded to during my testimony at the hearing. All of the Swiss investors are also fully declared to the Swiss Tax authorities.

As stated at the hearings and also as part of the original funding statements the investors are committed to the completions of the project. Helix Fiduciary AG "Helix" is in control of the bank accounts from which the funding is provided by way of loans to RiverOak Strategic Partners Limited. We have to date committed £14,758,185 to the project. This includes the purchase of the fuel storage facility known as "Jentex" for the sum of £2,658,185 including costs and all taxes plus the funding of RSP's auditor's account with £500,000 for blight costs.

With the original funding statement Helix also provided a letter from PWC, one of the "big four" accounting firms, which had undertaken a review of two of our fiduciary structures which are solely managed and controlled by Helix. The findings from their report confirmed the identities of the ultimate beneficial owners of those accounts (Mr XXXXXX, Mr XXXXXXXXXX and Mr. XXXXXXXXXX), the fact that the entire funds of the various accounts did not have the assets pledged in favour of the bank or any pledges or guarantees recorded by

¹ Attached is a letter from the individuals' agent regarding the application of Business Investment Relief together with the 3 confirmations from HMRC that we may source the project with certain funds.

² The BIR investments are reported annually after the end of the tax year in which they arose.

Helix Fiduciary AG | Schanzeneggstrasse 3 | CH-8002 Zürich | Switzerland
helixfiduciary.com | Phone +41 (0)44 206 50 80 | Fax +41 (0)44 206 50 88



the bank in favour of another bank or third party and finally, each structure had the currency equivalent that exceeded the sum of £15 million (a total that exceeded £30 million). This amount is substantially more than is already required.

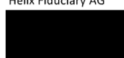
Helix can confirm that nothing declared in the letter of PWC addressed to the Inspectorate has changed at the date of this letter except the total values of each account have increased significantly due to performance of the publically traded assets held. We confirm that these structures and assets under the Automatic Exchange of Information are also reported indirectly to HMRC.

It was questioned at the hearings whether we truly had the resources or the commitment to complete this project of the DCO and the CPO of the land. The commitment we have shown to date we believe cannot be doubted. No sensible person in their right mind would believe that we could spend the level of funds that we have and that we would not follow through to the end.

The reason for our redaction is that our co-investors, who are not directors on RSP, are all very successful individuals and feel that if their identities were revealed at this time they would become the objects of hostile social media coverage. Further if we showed the level of assets in their accounts even on a redacted basis, should their identities be revealed to the public later, it would not take a lot of thought by the media to connect all the bank information with the individuals concerned.

We appreciate that in an ideal world the Examining Authority would like to know the identity of all investors. However, we are dealing here with not with a PLC or a large public authority but with private individuals who have chosen to invest in a major UK infrastructure project under the provisions of the Business Investment Relief Scheme as developed and approved by HM Treasury. They have already made full and complete disclosure to HMRC who are aware of their identities. They have submitted themselves to the intense scrutiny to be expected of HMRC and to whom they also make annual returns in respect of this investment.

Yours sincerely
For and on behalf of
Helix Fiduciary AG



Nicholas Rothwell
Director



Rico Seitz
Director

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HM Revenue
& Customs

Business Investment Relief
HM Revenue and Customs
BX9 1BN

Mr

LONDON

Phone 03000 527416
8.30am-5.00pm, Monday to Friday

Fax 03000 527402

Web www.gov.uk

Date 1 December 2016
Our ref 0500

Dear Mr

Business Investment Relief – Advance Assurance

Thank you for your agent's letters and enclosures of 4 October and 11 November 2016.

I can confirm that, on the basis of the information your agent has supplied, it is the opinion of HM Revenue and Customs (HMRC) that the proposed investment in RiverOak Strategic Partners Limited can be treated as a qualifying investment as defined in section 809VC of the business investment relief provisions in Chapter A1 of Part 14 Income Tax Act 2007 (ITA).

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.
- 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.
- This opinion is given on the basis of the legislation in force at the date of this letter. It may not apply if there are any changes to that legislation in the future.

You can find guidance on the business investment relief on our website www.HMRC.gov.uk. Please refer to the Information Note and associated Guidance Note: Changes to the Remittance Basis, to find out:

- When an investment will qualify for the relief
- The actions you must take to claim relief
- Your ongoing responsibilities in relation to the investment
- What to do if you extract funds from your investment directly or indirectly.

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



FF

Head of Unit: Ann Roberts

This advance assurance applies to you alone, as the applicant, and to the specific investment made by a relevant person on which you asked for an opinion. Nothing stated or implied in this letter can be relied upon by any other person including those making investments in the same target company or the target company itself.

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.

In the vast majority of cases an advance assurance we give will be correct in law and therefore binding on HMRC. However there are some circumstances which mean that we can no longer be bound by an advance assurance we have given. Please read the section 'When you can rely on information or advice provided by HMRC' for full information on when you can rely on an advance assurance response from us. This can be found at <http://www.hmrc.gov.uk/pdfs/info-hmrc.htm>.

Please note that our new address is Business Investment Relief, HM Revenue and Customs, BX9 1BN. If you write to us but do not use this address then we may not get your post.

Yours sincerely

Cameron Wilson
Customer Relationship Manager

To find out what you can expect from us and what we expect from you go to www.gov.uk/hmrc/your-charter and have a look at 'Your Charter'.

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- d. Evidence that the Applicant has spent £12.8 million on pursuing the DCO application so far plus a further £2.4 million acquiring the 'Jentex' fuel farm (Appendices F.2.21 and F.2.7 in TR020002/D6/SWQ/Appendices respectively);

How is a draft letter that is not signed by the Applicant's accountants evidence that the applicant has spent £12.8 million on pursuing the DCO application so far plus a further £2.4 million acquiring the 'Jentex' fuel farm?

Independent Limited Assurance Report

To: the Directors of Riveroak Strategic Partners Limited

Date: 29th April 2019

We have been engaged by Riveroak Strategic Partners Limited to undertake a limited assurance engagement in respect of the period ended 31 March 2019, on the financial records of Riveroak Operations Limited as described below.

Management's Responsibilities

Management is responsible for the preparation and presentation of the financial information, current as at the date of our report. Management is also responsible for establishing and maintaining appropriate internal control and record keeping systems from which the reported information is derived.

Our Responsibility

Our responsibility in relation to the Report is to perform a limited assurance engagement and to express a conclusion based on the work performed. We conducted our engagement in accordance with International Standard on Assurance Engagements (ISAE) 3000 (Revised) Assurance Engagements other than Audits or Reviews of Historical Financial Information, issued by the International Auditing and Assurance Standards Board.

Assurance Approach

We planned and performed our work to obtain all of the evidence and information we considered necessary in order to form our conclusion as set out below. A limited assurance engagement consists of applying analytical and other evidence gathering procedures, as appropriate. Our procedures included:

- Reconciling the Profit and Loss expenditure to bank payments, taking into account Trade Creditors, VAT and payments relating to Balance Sheet items.
- Reviewing the money received to establish the source of income.
- Comparing the money received to the profit and loss expenditure.

The extent of evidence gathering procedures performed in a limited assurance engagement is less than that for a reasonable assurance engagement, and therefore a lower level of assurance is obtained.

Cont'd/...2

- 2 -

Our assurance report is provided solely to the Directors of Riveroak Strategic Partners Limited in accordance with the terms of our engagement. Our work has been undertaken so that we might report to the Directors of Riveroak Strategic Partners Limited on those matters that we have been engaged to report upon in this assurance report, and for no other purpose. We do not accept nor assume responsibility to anyone other than the Directors of Riveroak Strategic Partners Limited for our work, for this assurance report, or for the conclusion we have reached.

Independence and Competence

In conducting our engagement, we have complied with the independence and other ethical requirements of the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants. The engagement was conducted by a multidisciplinary team which included professionals with suitable skills and experience in both assurance and in the applicable subject matter.

Our Conclusion

Based on the procedures performed, we have confirmed that to date Riveroak Operations Limited has committed and expensed funds of £12.8m in the pursuance of the Riveroak group of companies' project in relation to Manston airport in Kent.

Calder & Co

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How is the Completion Statement to which Applicant refers which shows a ‘Balance Required to Complete of £2.12M evidence of £2.4 million spent to acquire the ‘Jentex’ fuel farm?’

COMPLETION STATEMENT

Seller: N.A. Jenkins-Graham, T.J. Cardy-Jenkins, A.N. Jenkins and J. Jenkins and D.A. Phillips & Co Limited
Buyer: Riveroak Fuels Limited
Property: Jentex Site, Canterbury Road West, Cliffsend, Ramsgate, Kent, CT12 5DU
Exchange: 26 July 2018
Completion: 12 September 2018
BDB Ref: [REDACTED]

| | | |
|-------------------------------------|----------------|----------------------|
| Purchase Price | | £2,300,000 |
| LESS | | |
| Deposit already paid | | (£300,000) |
| PLUS | | |
| SDLT | £116,500 | |
| Search Validation insurance | £295.00 | |
| Chancel Repair Liability insurance | £480.00 | |
| Land Registry Fees (Title K315361) | £455.00 | |
| Land Registry Fees (Title K935532) | <u>£455.00</u> | <u>£118,185.00</u> |
| Balance required to complete | | £2,118,185.00 |

Barclays Bank Plc
Canary Wharf, 1 Churchill Place, London, E14 5HP
Bircham Dyson Bell LLP Client STG
Sort code: [REDACTED]
A/c number: [REDACTED]
IBAN - [REDACTED]
Ref: [REDACTED]

N.B. Payment of £240,000 re historic planning costs to be made to AJFO directly

18853774.1

- e. A summary business model consisting of a 20-year operating income statement for the airport (Appendix F.1.5 at REP3-187);

SHP has commented at length on the inadequacy of the very high level operating income statement provided for this Examination and their comments will not be repeated here. However, we would respectfully ask the following question:

Has the operating income statement been updated since REP3 to reflect updated investment requirements surfaced through the Examination process and if not, why not? Why does the Applicant expect the ExA to rely on an out of date operating income statement?

- f. A capital expenditure budget for the project over 15 years (Appendix F.1.6 at REP3- 187);

In its Deadline 7a response (May 2019) the Applicant points to a capital expenditure budget for the project submitted at REP3 (February 2019). However over the course of the Examination there have been vast fluctuations in the Applicant’s cost forecasts e.g. significant Phase 1 construction costs fluctuations from £185M to £100M to £180M.

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As a general observation the Applicant cannot be deemed to be in control of its business plan, operational forecasts, viability assessment, operating income projections and capital expenditure projections.

When will this collection of inter-related and fundamental business and financial forecasts on which the Examining Authority has to rely, for example to assess ‘capability’ to deliver an increase of 10,000 cargo ATMs and qualify as a NSIP, be updated to reflect important and significant amendments to the Project required of the Applicant and communicated through this Examination process? (e.g. exclusion of night flights).

When will the impact on profitability and return on investment be assessed?

- g. The rationale for estimating land acquisition costs together with costings for the expenditure in the Noise Mitigation Plan (answering questions F.1.8 and F.1.9 in REP3-195 respectively);

The Applicant states under F1.8:

“The Applicant has not included detailed costings in the application documentation. The Examining Authority will be aware that the overwhelming majority of the land is held by Stone Hill Park Limited, with a number of additional parties affected, and for reasons of commercial confidentiality and sensitivity the Applicant considers it inappropriate to provide a breakdown of different elements as they may be assigned to individual land holdings. The Applicant’s property cost estimate is founded on the statutory compensation code position in the ‘no scheme world’ and with appropriate planning assumptions made.”

And under F1.9 the Applicant states:

“The Applicant has not included detailed costings in the application documentation. The Applicant estimated a sum of £4,000 per property towards acoustic insulation having considered noise insulation assistance schemes at other airports in the UK. For example, it is the Applicant’s understanding that Manchester Airport offers up to £2,000, Gatwick Airport offers up to £3,000, and Heathrow Airport is proposing up to £3,000 in its outer zone affected by the planned new runway. The Applicant believes that its offer is generous in this context.”

Examples of currently un-costed items cited by Affected Parties include (and are not limited to):

1. Defence Infrastructure Organisation Letter – D7a
CA.3. 3 Crown Land: MoD Lands.
 - There are two principal freehold sites that the Applicant has indicated that it wishes to acquire from the MoD (the Motor Transport Unit and the Aerial Farm – land parcel numbers 026 and 038 respectively), in addition to which there are in excess of 50 further sites over which the Applicant wants the MoD to release such legal interests as it may have in the land parcels. The Motor Transport Unit is still operational (serving the Defence Fire and Rescue Establishment opposite) and the MoD wishes to retain this facility in its current location. It is understood that the Aerial Farm is redundant although the relevant internal confirmation of this is still awaited. It should be noted that there is also a 150m exclusion zone around the Aerial Farm.
- CA 2.4 HRDF
 - RSP take the view that it has not included any provision within the dDCO to specifically cover the HRDF as they intend to relocate the HRDF outside the Order Limits. Strictly speaking, this may be the case but for the MoD and the Planning Inspectorate the question of the funding for any relocation of the equipment must be a relevant consideration. The cost of relocating this and any other costs relating to the MOD’s interests does not appear to have been included in the figure for compulsory purchase acquisition submitted by the Applicant.
2. Savills, Agents to St John’s College, Cambridge who in their response to Third Written Questions write:

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- CA.3.20 – The applicant has correctly referred to the letter dated 23 February 2018. The applicant had previously confirmed that they had no design details relating to the proposed landing lights and neither were they able to confirm whether they would be looking at a freehold or leasehold acquisition. [...] As mentioned above the Applicant's letters made no attempt to address the points of concern they were simply repetitious attempts to persuade the landowner to negotiate a voluntary acquisition by the Applicant. Therefore the College are unable to take a view on this matter.
3. RAF Manston Spitfire and Hurricane Memorial Museum who in their response to Third Written Questions state: "Concern was expressed that the museum in question (CA.3.27) is referred to as a "lessee or tenant". We are, in fact, the freeholder of the site we occupy. [...]"

The Trustees have mutually agreed with the applicant (RSP) the following objectives:

- a. RiverOak will make a significant financial contribution to the capital costs of establishing a relocated museum on the Northern Grass, as well as to the necessary fit-out and removal costs; the parties will work together to secure additional funding from third party sources.
 - b. Furthermore, we have a verbal agreement from Tony Freudman that the Museum would be re-gifted its freehold as soon as the DCO is secured by RSP."
4. Costs associated with the implementation of Public Safety Zones to be included, shown by SHP in OP.3.10 of their response to Third Written Questions to be required by year 4 when 1,500 ATMs are expected per month and when 2,500 ATMs are expected within 15 years.

Thanet District Council in its response to Third Written Questions state:

- "The designation by the Civil Aviation Authority of a 1 in 100,000 PSZ would have significant implications for planning policy in the district, and would need to be addressed in the proposed review of the Local Plan, in the event that the DCO is granted. On the basis of the submitted information, 2 sites allocated for housing development in Ramsgate in the Draft Local Plan would be affected by the boundaries shown in OP.2.7. One of these sites has current planning permission and has been substantially built out (Lorne Road), whilst the other site has planning permission for 6 dwellings and an additional 16 allocated but not covered by a planning permission. (Seafield Road/Southwood Road). As well as these specific allocations, the draft plan makes provision for windfall sites (within the urban confines) to come forward with approximately 2,500 homes by 2031 across the whole district.

As raised by the DIO, for the Planning Inspectorate the question of funding the acquisition of freeholds and other rights and powers of **all** in-scope plots, with associated 'hope value' as appropriate must be a relevant consideration. The current provision of £7.5M appears to be attributable to SHP land only

What assurance is there in light of the above that the £15M on which the Applicant relies based on the Varied Joint Venture Agreement (of which £7.5M is designated for compulsory acquisition of land and/or legal rights over land) is likely to be adequate?

- h. Evidence that the Applicant has set aside £500,000 for any blight claims despite receiving advice that none would be payable (appended to REP5-011);

Applicant states:

(g) **Blight**

- 3.21 The Applicant provides at Appendix 7 evidence that its accountants Calder & Co have £500,000 that can be drawn down for **blight** claims, despite its valuer CBRE advising that no properties are likely to be eligible for **blight** because there are no residential properties within the Order limits.

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Appendix 7 shows a ledger balance of £7,446.86 on 18/03 and a deposit of £500,000. It does not show that the deposit has cleared nor that the funds are set aside for blight claims. Indeed, the Applicant has failed to provide any proof of funds in Applicant company bank accounts.

Bankline



Statement for account [REDACTED] from 15/02/2019 to 18/03/2019

Short name: CALDER & CO/RIVEROAK Currency: GBP
 Alias: CALDER & CO/RIVEROAK Account type: CLIENT DEPOSIT MANAG
 BIC: [REDACTED] Bank name: Royal Bank of Scotland
 IBAN: [REDACTED] Bank branch: [REDACTED]

| Date | Narrative | Type | Debit | Credit | Ledger balance |
|---------------|--|------|-------------------|-------------------|-------------------|
| 18/03/2019 | LOAN TO RIVEROAK MANSTON [REDACTED] | ITL | | 500,000.00 | - |
| | CLOSING BALANCE | | | | 7,446.86Cr |
| 21/02/2019 | FREUDMANN TIPPLE FREUDMANN TIPPLE FP 21/02/19 10 [REDACTED] | EBP | 190,000.00 | | 7,446.86Cr |
| 21/02/2019 | CALDERS/OFFICE FP CHG | EBP | 3.00 | | 197,446.86Cr |
| 18/02/2019 | [REDACTED] | | | 193,265.66 | 197,449.86Cr |
| | OPENING BALANCE | | | | 4,184.20Cr |
| Totals | | | 190,003.00 | 693,265.66 | |

How does the Applicant expect the ExA to rely on a complete lack of proof of funds in any of the Applicant company accounts or bank accounts? Where is this evidence and why has it not been forthcoming?

i. Information about RiverOak Investment Corporation, the predecessor of RiverOak Strategic Partners (Appendix F.2.25 in TR020002/D6/SWQ/Appendices).

The full extent of the information to which the Applicant refers and from which it wishes the ExA to take comfort / derive insight relevant to its Application is provided in the screenshot below:

State Of Delaware

Entity Details 4/18/2019 11:46:02AM

File Number: 3028870 Incorporation Date / Formation Date: 4/12/1999

Entity Name: RIVEROAK INVESTMENT CORP., LLC

Entity Kind: Limited Liability Company Entity Type: General

Residency: Domestic State: DELAWARE

Status: Good Standing Status Date: 4/12/1999

Registered Agent Information

Name: THE CORPORATION TRUST COMPANY

Address: CORPORATION TRUST CENTER 1209 ORANGE ST

City: WILMINGTON Country:

State: DE Postal Code: 19801

Phone: 302-658-7581

What does the Applicant expect the ExA to infer from this information and how does this provide assurance to its application?

DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE

Concluding Remarks:

Given the level of complexity and obfuscation in the Applicant company affairs combined with over-stated, misleading or missing evidence how can the Applicant expect the ExA and the Secretary of State to reach a reasonable level of assurance that the Applicant's funds are:

1. legitimate
2. compliant with BIR rules and have been approved by HMRC based on the 2 year rule
3. sufficient
4. available, in a manner that is legally binding on all ultimate beneficial owners?

Please note that whilst BDB Pitman attest to the ultimate beneficial owners being the same, they do not attest to the ultimate beneficial owners' legal commitment to invest in Manston.

This submission has taken an evidence based approach to demonstrating that the ultimate beneficial owners funds reside in Third Party company bank accounts unrelated to the Applicant companies, and not in Applicant company bank accounts. These Third Company bank accounts are merely operated by Helix Fiduciary (AG). Helix Fiduciary is not an investor in Applicant companies (Helix Directors Limited of Tortola Virgin Islands is), and Helix Fiduciary (AG) are not a Party to the JV (Helix Directors Limited are, in their capacity as director for MIO Investments). Helix Directors Limited are not evidenced to be the owners or operators of the funds. They are a director of MIO Investments Ltd, a Belize based company that is the signatory to the JV and not evidenced in any case as an ultimate beneficial owner.

It can only be concluded that nowhere has the Applicant (or the professional service providers that it has engaged, namely accountants and legal firms) provided evidence that all ultimate beneficial owners of the funds are legally committed to investing in the Manston project.

- PwC has not attested to the ultimate beneficial owners being legally bound to invest in Manston.
- BDB Pitman has not attested to the ultimate beneficial owners being legally bound to invest in Manston
- Calder & Calder have not attested to anything; including proof of investment to date
- HMRC letters provide evidence of up to three UK resident potential investors in December 2016 and from RIU shareholdings it may be reasonable to assume HLX Nominees Ltd (Tortola Virgin Islands) is another un-named investor; however the individual investors behind MIO Limited and HLX Nominees Ltd remain un-named and un-known and nowhere is there proof of their consent to invest in Manston

Where is the evidence that this group of investors want to invest in Manston and are legally bound to invest in the project?

Where does this leave the Funding statement in view of the named investors accounting for a minority share of the investment that the Applicant believes it requires for the first phase of funding (£11.85M - £15M)?

Where does this leave this application in view of the significant un-quantified acquisition and noise mitigation costs that need to be funded up-front?

Please see below for an updated list of unresolved funding demands, following my Deadline 7 submission and updated in light of others' Deadline 7a submissions:

Requests of the Applicant from a number of Interested / Affected Parties to review and revise the Funding Statement, including the initial funding requirement currently estimated at £11.35M. The following have been identified through the course of this Deadline 7 submission (list not exhaustive):

- Costs to include acquisition of freeholds and other rights and powers of **all** in-scope plots, with associated 'hope value' as appropriate. There are at least 26 plots over which the Applicant intends

DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE

to acquire the freehold (SEE GR COMMENTS UNDER FR3.6). The current provision of £7.5M appears to be attributable to SHP land only

E.g. Defence Infrastructure Organisation Letter – D7a

CA.3. 3 Crown Land: MoD Lands.

There are two principal freehold sites that the Applicant has indicated that it wishes to acquire from the MoD (the Motor Transport Unit and the Aerial Farm – land parcel numbers 026 and 038 respectively), in addition to which there are in excess of 50 further sites over which the Applicant wants the MoD to release such legal interests as it may have in the land parcels. The Motor Transport Unit is still operational (serving the Defence Fire and Rescue Establishment opposite) and the MoD wishes to retain this facility in its current location. It is understood that the Aerial Farm is redundant although the relevant internal confirmation of this is still awaited. It should be noted that there is also a 150m exclusion zone around the Aerial Farm.

2. CA 2.4 HRDF

RSP take the view that it has not included any provision within the dDCO to specifically cover the HRDF as they intend to relocate the HRDF outside the Order Limits. Strictly speaking, this may be the case but **for the MoD and the Planning Inspectorate the question of the funding for any relocation of the equipment must be a relevant consideration. The cost of relocating this and any other costs relating to the MOD's interests does not appear to have been included in the figure for compulsory purchase acquisition submitted by the Applicant.**

E.g. Savills, Agents to St John's College, Cambridge who in their response to Third Written Questions write:

CA.3.20 – The applicant has correctly referred to the letter dated 23 February 2018. The applicant had previously confirmed that they had no design details relating to the proposed landing lights and neither were they able to confirm whether they would be looking at a freehold or leasehold acquisition. [...] **As mentioned above the Applicant's letters made no attempt to address the points of concern they were simply repetitious attempts to persuade the landowner to negotiate a voluntary acquisition by the Applicant. Therefore the College are unable to take a view on this matter.**

E.g. RAF Manston Spitfire and Hurricane Memorial Museum who in their response to Third Written Questions state: "Concern was expressed that the museum in question (CA.3.27) is referred to as a "lessee or tenant". **We are, in fact, the freeholder of the site we occupy.** [...]

The Trustees have mutually agreed with the applicant (RSP) the following objectives:

- [...]
- **RiverOak will make a significant financial contribution to the capital costs of establishing a relocated museum on the Northern Grass, as well as to the necessary fit-out and removal costs;** the parties will work together to secure additional funding from third party sources.

Furthermore, we have a verbal agreement from Tony Freudman that the Museum would be re-gifted its freehold as soon as the DCO is secured by RSP."

- Costs associated with the implementation of Public Safety Zones to be included, shown by SHP in OP.3.10 of their response to Third Written Questions to be required by year 4 when 1,500 ATMs are expected per month and when 2,500 ATMs are expected within 15 years.

E.g. Thanet District Council in its response to Third Written Questions state: "The designation by the Civil Aviation Authority of a 1 in 100,000 PSZ would have significant implications for planning policy in the district, and would need to be addressed in the proposed review of the Local Plan, in the event that the DCO is granted. On the basis of the submitted information, **2 sites allocated for housing development in Ramsgate in the Draft Local Plan would be affected by the boundaries shown in OP.2.7. One of these sites has current planning permission and has been substantial built out (Lorne Road), whilst the other site has planning permission for 6 dwellings and an additional 16 allocated but not covered by a planning permission. (Seafield Road/Southwood Road). As well as these specific allocations, the draft plan makes provision for windfall sites**

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(within the urban confines) to come forward with approximately 2,500 homes by 2031 across the whole district.

- Noise mitigation compensation to make provision for homeowners that have acquired their properties since the airport closed five years ago, the rationale for this being a potential law suit under ECHR Articles 8 and 13 (see Hatton & Others v United Kingdom that shows these articles to be engaged in case of aircraft noise)
- Noise mitigation compensation to make provision for schools, including outdoor teaching spaces
- Noise mitigation compensation to make provision for the 775 properties arbitrarily de-scoped by the Applicant upon increasing the compensation amount for the 225 properties worst affected

In its response to Third Written Questions Ns3.5 the Applicant estimates the total population impacted by night noise to be 35,667 based on noise level >40 dB LAeq8hr (consistent with WHO guidelines 2018). **How can just 225 properties be considered for noise mitigation compensation on this basis? Where is the funding to compensate / insulate the properties of all impacted residents prior to construction of this project?**

| Year of maximum forecast capacity | Windows open | Annual average insulation ² | Windows closed |
|--|--------------|--|----------------|
| Total population exposed to night noise level >40 dB LAeq,8hr | | 35,667 | |
| Estimated total number of aircraft noise induced awakenings across the population | 12,734 | 10,917 | 7,492 |
| Estimated total number of spontaneous awakenings without the proposed development (baseline) | | 856,008 | |
| Aircraft noise induced awakenings as a percentage of the baseline | 1.49 | 1.28 | 0.88 |

- Noise mitigation compensation to make provision for an accurate, updated list of residential properties eligible for noise insulation once the noise contour maps have been updated and accurately reflect the fleet mix aligned to the air cargo sector
- Compensation to make provision for local businesses required to close and/or relocate as a consequence of this project
- Compensation to make provision for caravan owners to relocate as noise insulation cannot be installed
- Funding to make provision for KCC requirement for a financial contribution under section 106 of the Town and Country Planning Act 1990 towards the Thanet Transport Strategy, plus costs to complete a revised apportionment exercise by KCC's specialist consultants (SEE KCC's response to second written question Tr.2.2)
- Funding to make provision for KCC requirement for necessary monitoring (and implementation if deemed necessary) of a controlled parking zone around the site (SEE KCC TR.3.44).
- Funding to be allocated to cover SHP compensation for costs incurred in defending the DCO, claimed under DCLG, Awards of costs: examinations of applications for development consent orders. Guidance'

DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE

- Funding to be allocated to cover other Interested Parties costs incurred in defending the DCO, claimed under DCLG, Awards of costs: examinations of applications for development consent orders. Guidance’.
- Funding to address the requirements of Historic Buildings. In its response to Third Written Questions Historic England states: “1.5 Historic England has taken the view that because inadequate survey of such buildings and features has been undertaken at Manston it has not been possible to determine whether the individual features or groups of features have strong individual or associational importance; however it is plausible that some of them will be found to have such importance following further survey and analysis. Therefore, **we think that the applicant has been too dismissive of the potential importance of historic buildings.** [...]1.8 We think it is premature of the applicant to say that their loss can be adequately mitigated by recording of the structures. **No clear and convincing justification has been offered, including demonstration that harm has been avoided as far as possible in order to conserve and enhance heritage significance,** and little consideration appears to have been given to the contribution their conservation could make to the character of the place and public appreciation.

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APPENDIX



Examining Authority
Examining the Manston Airport DCO application

Your Ref
TR020002
Our Ref
ADW/166055.0003
Date
24 May 2019

Dear Sirs

Funding attestation

I, Angus Walker, partner at BDB Pitmans, attest that I have seen recent statements which match the accounts referred to in the PwC letter dated 5th July 2018. These two accounts with Swiss bank Julius Baer, both dated 17 May 2019, show holdings that comfortably exceed £15m each. The ultimate beneficial owners of both accounts are the same as referred to in the PwC letter and are the individuals referred to in the Helix Fiduciary letter appended to the summary of oral case at the compulsory acquisition hearing on 20 March.

Yours faithfully



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SRA ID Number 448617

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Appendix F.3.6

DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE



To HM Planning Inspectorate
Bristol
United Kingdom

Copy Helix Fiduciary AG, Zurich
Bircham Dyson Bell, London

Dear Sirs,

Manston Airport Development Consent Order

We confirm that we have provided to Helix Fiduciary AG, Zurich and Bircham Dyson Bell, London, a report of factual findings of the agreed-upon procedures regarding certain bank accounts which Helix Fiduciary AG operate for their clients.

We have corresponded directly with the banks in question and the report which is dated 5th July 2018 confirms the following:

- The ultimate beneficial owner(s) of each account in question;
- The net balances of cash and short-term investments and equities and similar positions;
- Confirmation that the accounts in question do not have their assets pledged in favour of the bank or any pledges or guarantees recorded by the bank in favour of another bank or third party.

The report details two structures where the assets are held by two branches of the bank and said branches have reported on two different dates, 19th June 2018 and 28th June 2018. The net combined balances of cash and short-term investments and equities and similar positions of the accounts in question at each branch of the bank exceed the currency equivalent of £15 million as of the reporting date of the respective branch.

Please understand that we can assume no obligations or liability whatsoever for this letter. This letter serves solely to inform HM Planning Inspectorate, Bristol, Helix Fiduciary AG, Zurich and Bircham Dyson Bell, London, about our works in respect to the procedures we have performed. This letter may not be used for any other purpose and may not be divulged to a third party.

PricewaterhouseCoopers AG



Zürich, 5 July 2018

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DEADLINE 8 SUBMISSION (Funding) – GEORGINA ROOKE



HM Planning Inspectorate
Bristol
United Kingdom

25th March, 2019

Dear Sirs,

With reference to the hearing regarding the funding of the Manston DCO project that took place on the 20th March 2019 I am writing to clarify certain matters and to give an update on statements made earlier.

In my letter dated 12.7.18 addressed to yourselves I referred to approaching HMRC on a named basis for the UK resident investors, to utilise non UK earned income for Business Investment Relief purposes¹. In this regard I have attached to this letter 3 confirmations received from HMRC dated 1 December 2016 accepting our proposed use of the UK resident shareholders' funds. This is to ensure to the Inspectorate that our UK investors, Mr XXXXXX, Mr XXXXXXXXXXX and Mr. XXXXXXXXXXX are reporting all funds that they are investing into the project on their personal tax returns to HMRC². The other significant investors are Swiss resident, being myself, Mr. Rico Seitz and Mr. Gerhard Huesler who are directors on the board of RiverOak Strategic Partners Limited "RSP" which I stated and alluded to during my testimony at the hearing. All of the Swiss investors are also fully declared to the Swiss Tax authorities.

As stated at the hearings and also as part of the original funding statements the investors are committed to the completions of the project. Helix Fiduciary AG "Helix" is in control of the bank accounts from which the funding is provided by way of loans to RiverOak Strategic Partners Limited. We have to date committed £14,758,185 to the project. This includes the purchase of the fuel storage facility known as "Jentex" for the sum of £2,658,185 including costs and all taxes plus the funding of RSP's auditor's account with £500,000 for blight costs.

With the original funding statement Helix also provided a letter from PWC, one of the "big four" accounting firms, which had undertaken a review of two of our fiduciary structures which are solely managed and controlled by Helix. The findings from their report confirmed the identities of the ultimate beneficial owners of those accounts (Mr XXXXXX, Mr XXXXXXXXXXX and Mr. XXXXXXXXXXX), the fact that the entire funds of the various accounts did not have the assets pledged in favour of the bank or any pledges or guarantees recorded by

¹ Attached is a letter from the individuals' agent regarding the application of Business Investment Relief together with the 3 confirmations from HMRC that we may source the project with certain funds.

² The BIR investments are reported annually after the end of the tax year in which they arose.

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the bank in favour of another bank or third party and finally, each structure had the currency equivalent that exceeded the sum of £15 million (a total that exceeded £30 million). This amount is substantially more than is already required.


Helix can confirm that nothing declared in the letter of PWC addressed to the Inspectorate has changed at the date of this letter except the total values of each account have increased significantly due to performance of the publically traded assets held. We confirm that these structures and assets under the Automatic Exchange of Information are also reported indirectly to HMRC.

It was questioned at the hearings whether we truly had the resources or the commitment to complete this project of the DCO and the CPO of the land. The commitment we have shown to date we believe cannot be doubted. No sensible person in their right mind would believe that we could spend the level of funds that we have and that we would not follow through to the end.

The reason for our redaction is that our co-investors, who are not directors on RSP, are all very successful individuals and feel that if their identities were revealed at this time they would become the objects of hostile social media coverage. Further if we showed the level of assets in their accounts even on a redacted basis, should their identities be revealed to the public later, it would not take a lot of thought by the media to connect all the bank information with the individuals concerned.

We appreciate that in an ideal world the Examining Authority would like to know the identity of all investors. However, we are dealing here with not with a PLC or a large public authority but with private individuals who have chosen to invest in a major UK infrastructure project under the provisions of the Business Investment Relief Scheme as developed and approved by HM Treasury. They have already made full and complete disclosure to HMRC who are aware of their identities. They have submitted themselves to the intense scrutiny to be expected of HMRC and to whom they also make annual returns in respect of this investment.

Yours sincerely
For and on behalf of
Helix Fiduciary AG


Nicholas Rothwell
Director


Rico Seitz
Director