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The Planning Inspectorate
National Infrastructure Planning
2 The Square
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13th June 2019

Dear Sirs

Your reference: TR02002

Application by River Oak Strategic Partners for an Order granting Development Consent

Following the Compulsory Acquisition Hearing 2 held on 4th June relating to the above I am writing to provide a summary of the matters I referred to during oral evidence with additional information where it is considered to be appropriate. I will also comment on some of the responses made by the Applicant to the ExA's third questions.

A. Oral Evidence given at the Hearing

1. Site proposed by RiverOak (RSP) for the re-location of the HRDF

In March 2018, a presentation was given by Osprey (on behalf of RSP) to representatives of the MoD concerning the proposed relocation of the HRDF. As part of that presentation an aerial photograph was included on which three sites had been marked as possible alternative sites for the relocation of the HRDF to the east of the former airport. A copy of this page of the presentation is attached. Of the three sites shown, Site 1 was Osprey's preferred option and it was the MoD's clear understanding that this site was the one that was being referred to Aquila for their technical assessment. The MoD had also understood this to be the position when discussing the content of the Statement of Common Ground, the latest draft of which refers to "Site" in the singular.

Attached is a copy of the Cogent LLP site plan on which I have superimposed Sites 1 and 3 from the Osprey presentation. From this it can be clearly (and unambiguously) seen that Site 1 is located within the area known as the Manston Green Development. When I made this point in oral evidence at the Hearing it was categorically refuted by Mr Freudmann of RSP who stated "if I can just correct that, because it is completely wrong" and went on to say "the suggested location is not, repeat not, on the Manston Green site". The factual evidence does not support these statements.

Also attached is a copy of the Cogent LLP indicative layout plan which shows the potential layout of the development. The Manston Green Development was granted outline planning consent on 16th July 2016 for 785 houses and associated development and neither at the time of the Osprey presentation (nearly two years after outline consent had been granted) nor at any time since have RSP made the MoD aware of the planned Manston Green Development, the presence of which is likely to have a considerable impact on the operational capability of the HRDF (even if it were to be located outside the development area). Neither, it seems, from comments made at the Hearing by Cogent's representative, have RSP made Cogent LLP aware of the proposals to relocate the HRDF. This is critical information for both parties that should have been disclosed to them by RSP.

In the Osprey presentation it should also be noted that it states that “Safeguarding of navigation aids and procedures also considered – Site one fully compliant”. It cannot possibly be the case that Site 1 is fully compliant given its location within the Manston Green Development.

If, as suggested by Mr Freudmann, Site 1 is not now the site and an alternative site or sites are being considered (or site 1 is now in a different location) then the MoD has no knowledge of where these are.

The MoD has also consistently expressed concern about the fact that no written evidence has been provided by RSP from the landowner on whose site it is proposed to locate the HRDF that such a proposal would be acceptable. In the Summary of the Applicant’s Oral Submissions at the January 2019 Hearings dated 18th January 2019 on page 3 under item 2.8 it states the following:

“TF [Tony Freudmann] explained that all sites for relocation of the HRDF were beyond the eastern boundary of the Order limits on land near to where the existing landing lights are located. The landowner of the sites in question had already consented to the HRDF being located on that land.”

As far as Site 1 is concerned the landowner could not unilaterally have consented to the HRDF being placed there, and the necessary freehold land sold to achieve this, as this proposal would also have needed the consent of Cogent Land LLP who until 4th June were unaware of the proposal. Although Site 3 is owned by the Steed family (who it has been suggested verbally are supportive of the project), Site 2 is owned by an unconnected company, C J Montgomery Limited and there is no evidence (verbal or otherwise) of any discussions or consultation by RSP with that Company.

2. The Role of Aquila

The point I made at the hearing in regard to the role of Aquila is that in terms of the technical feasibility assessment of the proposed alternative site for the relocation of the HRDF, the contract for preparing this feasibility assessment is directly between Aquila and RSP (the MoD has no involvement in this arrangement – it between these two parties notwithstanding the fact the Aquila is the MoD’s appointed contractor to provide and maintain transmitter/receiver equipment and associated infrastructure).

Once the feasibility report has been undertaken Aquila will report back to their client RSP who in turn will have to present the findings of the report to the MoD. The MoD who will consider the report and consult various parties within (or associated with) the organisation who have a direct involvement in the operation of, or rely on the function of, the HRDF to assess the report together with any safeguarding issues with a view to making a decision as to whether the equipment can be re-located.

It should be noted that as part of the process of engagement with Aquila RSP have also been in communication with the Project Marshall Delivery Team in an attempt to secure a letter of “no impediment” from them to present to the Planning Inspectorate (a copy of the relevant email is attached). This would effectively bypass the correct process which is that it is only the MoD that are in a position to issue such a letter having considered all the facts. This approach by Osprey to the MoD’s contractor is wholly inappropriate.

There was conflicting evidence given at the Hearing as to when the feasibility report would be available. Mr Freudmann suggested it would be by the end of September although Mr Hincliffe of Osprey indicated it would be by the end of June. Even assuming the report is available by the end of June the MoD will not have made any decision as to the suitability of the alternative site(s) prior to the close of the Hearing on 9th July.

3. Safeguarding and timing issues

The Ministry of Defence (Manston) Technical Site Direction (2017) Plan was discussed in oral evidence. At present the Site Direction Plan is centred around the existing HRDF. If the HRDF is moved then a new plan will have to be prepared which would have to be centred on the new location. Within the boundaries of the existing plan it can be seen that there is relatively little development. If the HRDF is relocated at the eastern end of the former airport and

a new plan is centred on this new location, there is considerable and extensive existing development that would fall within the boundaries of the new plan. It would potentially impose restrictions on existing property owners that hitherto do not exist.

If a suitable site is identified from a technical and safeguarding point of view then a planning application will have to be submitted for the new site. This could be refused (possibly for political rather than planning reasons) and the matter would have to go to Appeal. The Project Marshall delivery Team have to factor the construction of the new site into their work schedule and once the new HRDF is operational there will have to be a period of overlap. Different timescales have been suggested for this but realistically it seems that it would have to be for a minimum period of a year possibly up to two years. All of this means that there is considerable uncertainty regarding timings for the possible relocation of the HRDF and the difficulty this poses in terms of building in the necessary protections and safeguards for the HRDF into the DCO should it be granted.

B. Comments on Applicant's Responses to ExA's Third Questions

The MoD does not accept a number of comments made by the applicant in response to the ExA's Third Questions. It is considered that there is little to be achieved to going through points on an individual basis but would highlight certain of these where it is considered most appropriate, as follows:-

- At point CA.3.5 (pages 13-14) the Applicant makes the comment that in practice Crown Consent being in place prior to the completion of the examination phase is rarely ever achieved. As stated in oral evidence Manston is unique in that on the Crown Land within the DCO Application there is infrastructure of national importance and significance which needs to be protected which it is considered unlikely to be the case in the other examples cited.
- Later in point CA 3.5 (page 14) it refers to "on occasion almost weekly attempts" being made to advance the issue which is a somewhat generous interpretation of events.
- In point CA 3.5 (page 15) it states that at two meetings (on 14th March 2018 and 18th October 2018) "the proposed alternative location for the HRDF was presented". It is assumed by this comment that Site 1 on the Osprey presentation is the site that is being referred to which for the reasons stated above is considered to be a flawed site. Presenting a location for the site in itself is not enough, it needs to be technically assessed which has consistently been made clear to the Applicant.
- Again, in point CA 3.5 (page 15) there appears to have been a hiatus between the meeting referred to on 18th October and contact finally being made with Aquila for which no compelling reasons are given.
- At point CA 3.6 (page 16) it states "the Applicant is confident that the site it has identified is suitable to house the HRDF". This confidence would appear to be misplaced (assuming the site referred to is Site 1) for the reasons stated above.
- At point CA3.6 (page 16) the comment is made that the Applicant has identified "the preferred site [again it is assumed that this is site 1] which has allowed discussions with the relevant landowner to be conducted. Again for reasons stated above Cogent Land LLP have an interest in the site and were unaware of the proposal for this site until the Hearing.
- At point CA 3.6 it states (page 17) "nevertheless this issue does now represent a risk to the implementation of the scheme". It is difficult to see how this risk can be managed as following the Hearing it is unclear precisely what sites are being considered and the various timing issues that are involved with the possible re-location of the HRDF which are outside the Applicant's control.

C. Summary

Whilst The Ministry of Defence remains neutral regarding the outcome of the DCO Application it nevertheless has considerable concerns about the DCO Application particularly in relation to the HRDF which can be summarised, as follows:-

- The development proposals, as submitted as part of the DCO Application, are unacceptable to the MoD (as RSP have previously been advised) as they would have a detrimental impact on the operational capability of the HRDF if a suitable alternative location cannot be found and it has to remain in its existing position. This was made clear to the Applicant in a letter.
- No technical information has, as yet, been provided regarding the proposed preferred alternative location for the HRDF (Site 1). This may or may not be forthcoming by 9th July.
- Even if a technical assessment is provided by 9th July a final decision will not be taken by the MoD before this date.
- The proposed preferred location appears to be within the Manston Green Development. If this is the case then the performance of the HRDF would be adversely compromised and this site is unlikely to be acceptable.
- This last point was refuted and it was suggested in oral evidence that if a particular site was not suitable alternative sites would be considered. This poses a further element of uncertainty in the process as it is not clear where these sites are.
- If the site is within the Manston Green Development the applicant cannot provide either the necessary land ownership on which the equipment could be sited or the safeguarding criteria to be able to satisfy the MOD.
- There are concerns over issues of safeguarding and preparing a further Technical Direction Site Plan.
- If DCO is granted here will be significant timing issues for the implementation of the development

As outlined above significant concerns remain regarding the lack of clarity that exists in relation to the proposal to relocate the HRDF and the unresolved nature of a significant number of issues.

Yours faithfully



Estate Surveyor