

**MANSTON AIRPORT DEVELOPMENT CONSENT ORDER EXAMINATION**  
**SUBMISSION TO DEADLINE 9: COMMENTS ON INFORMATION REQUESTED BY THE**  
**ExA AND RECEIVED (FROM THE APPLICANT) TO DEADLINE 8**  
**SUBMITTED BY LOCAL BUSINESS AND INTERESTED PARTY, FIVE10TWELVE LTD**

1. In light of our own concerns regarding the accuracy and legitimacy of some of the Applicant's responses to questions and concerns surrounding data modelling, the EIA and ES, (see our recent Additional Submission at [AS-206](#)), and similar concerns which have now surfaced from Stonehill Park, ([AS-207](#)), we would like to respectfully draw the ExA's attention to a further matter of great concern in the Applicant's Technical Note submitted by its consultants, Wood, at Appendix ISH6-19, ([REP8-015](#)).
  
2. In light of the Precautionary Principle established by the European Court of Justice that ***"a risk of significant effect exists if it cannot be excluded on the basis of objective information"*** - which we understand the ExA to define as *"clear verifiable fact"* - we respectfully request the Examining Authority to make a **robust recommendation** to the Secretary of State to **refuse to grant the Applicant's DCO**.
  
3. As regards the Applicant's submission at Appendix ISH6-19, we are deeply concerned by the statement made at paragraph 2.1.5, relating to input parameters for the updated air quality and noise assessments provided in the accompanying zip file 8, Ref19\_V1.zip, which states:  
  

*"These two files **do not have contemporaneous date-stamps** since the original files used in the modelling contain additional intellectual property"*.
  
4. This is of great concern since there is clearly no way of verifying whether or not the aforementioned files are indeed the same files or contain the same data as was used in the air quality and noise assessments as submitted by the Applicant or whether they have been created and/or amended after the fact.

5. We do not accept the reasons provided by the Applicant and its consultants that the original files cannot be provided since they “*contain additional intellectual property*”. This appears to be a variant of the “*commercial confidentiality*” excuse the Applicant has employed time and again throughout the examination to avoid answering crucial questions regarding funding, finance, business model etc.
6. This reasoning is also unacceptable with regards to the ECJ “Waddenzee” Precautionary Principle and comments made by the ExA during ISH6, as noted in our recent Additional Submission, ([AS-206](#)), at paragraph 4.
7. With respect to the ExA, the Applicant has failed to specify whose Intellectual Property (“IP”) is allegedly included in the original file, the general nature of this IP or evidence of any legal and/or contractual and/or licensing restrictions that prevent the Applicant and/or the Wood group from presenting the original files.
  - 7.1. We note that the Applicant has therefore failed to provide the original input parameter files with a contemporaneous date stamp, as requested by the ExA, or any evidenced legal reason why such files cannot be presented in any form - either complete or with restricted IP redacted.
8. In the absence of any of the above, the files provided by the Applicant alleging to contain input parameters for the updated air quality and noise assessments **should not, in our view, be accepted as being legitimate for the purposes of this Examination** since the integrity, authenticity and validity of these input parameters for the updated air quality and noise assessments cannot be established.
9. It is therefore our further view that this calls into doubt the resulting air quality and noise assessments.
10. In light of the Precautionary Principle established by the European Court of Justice that “***a risk of significant effect exists if it cannot be excluded on the basis of objective information***” - which we understand the ExA to define as “*clear*

*verifiable fact*”, we respectfully request the Examining Authority to make a **robust recommendation** to the Secretary of State to refuse to grant the Applicant’s DCO.

11. We reserve the right to make further comments at Deadline 9 with regards to the Technical Notes and comments of the Applicant and its consultants submitted to Deadline 8, including but not limited to our response to the Applicant’s notes regarding the Five10Twelve ERCD Noise Contours.