

Manston Airport Case Team  
National Infrastructure Planning  
Temple Quay House  
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Bristol  
BS1 6PN

**Date:** 28 June 2019

**Your  
ref:**

**Our  
ref:** OCONNOJ\292050-000099

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**BY EMAIL TO - [ManstonAirport@planninginspectorate.gov.uk](mailto:ManstonAirport@planninginspectorate.gov.uk)**

Dear Sir/Madam

**Proposed Manston Airport Development Consent Order  
Network Rail's Responses to the Examining Authority's Fourth Written Questions  
(ExQ4)**

I write to you on behalf of Network Rail Infrastructure Limited ("Network Rail") in order to respond to the Examining Authority's Fourth Written Questions ahead of Deadline 9 on 28<sup>th</sup> June 2019.

Question CA.4.23 has been directed to both the Applicant and Network Rail.

**Question CA.4.23**

As the statutory undertaker responsible for maintaining and operating the national rail network, Network Rail detailed in its section 56 Representation objections to certain works and land acquisition powers proposed for this DCO scheme which, if consented without satisfactory protections for Network Rail, would materially prejudice Network Rail's ability to comply with its statutory and regulatory obligations to operate a safe, efficient and economical national rail network.

As noted in your question and the Statement of Common Ground between Network Rail and the Applicant, Network Rail has been in discussions with the Applicant for the inclusion of full and proper Protective Provisions for Network Rail in the draft Order together with the settlement of a framework agreement, the required asset protection agreement and necessary property agreement so to properly and fully protect Network Rail's statutory undertaking. These protections, including the terms of Protective Provisions which have been widely incorporated in other Development Consent Orders, have yet to be agreed to Network Rail's satisfaction as of the date of this letter.

In the absence of the proper protections, and in particular the inclusion of full and proper Protective Provisions for Network Rail in the Order, being agreed to Network Rail's satisfaction the Order and the compulsorily acquisition powers sought by the Applicant would create a serious detriment to the continued safe, efficient and economic operation of the railway. In such circumstances Network Rail would be unable to withdraw its representation and would continue its objection to the proposals.

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Network Rail has made the Applicant aware of its concerns and requirements and its wish to continue to seek agreement on the protections sought by Network Rail in a form that is well preceded and acceptable to Network Rail before the close of the examination.

Yours sincerely



**James O'Connor**  
**Partner for**  
**Eversheds Sutherland (International) LLP**