

Application by RiverOak Strategic Partners Ltd to reopen and develop Manston Airport

The Examining Authority's Fifth Written Questions and requests for information issued under Rule 17 of The Infrastructure Planning (Examination Procedure Rules 2010) (ExQ5)

Published 3 July 2019

IMPORTANT: Whilst the Examination Timetable¹ does not provide a formal opportunity for the Examining Authority (ExA) to ask a further round of written questions, it is able to do so under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010².

The ExA's Fourth Written Questions (ExQ4) issued on 21 June 2019 [PD-020] provided the final opportunity for Interested Parties to respond on a wider range of issues. The ExA is anticipating that all Interested Parties, but particularly the Applicant, will provide comprehensive comments on the responses of other Interested Parties to ExQ4. The ExA will be drawing on those comments, amongst other matters, in drafting its Recommendation Report.

However, in addition, the seventeen questions below (ExQ5) deal with specific issues arising out of responses to ExQ4 on Compulsory Acquisition and on transportation and traffic, only.

Responses to ExQ5 are due by Deadline 11 (23:59 on 5 July 2019) in the Examination Timetable. Comments on responses to ExQ5 must be received before the deadline for the close of the Examination at 23:59 on 9 July 2019. Any submissions received after the Examination has closed cannot be considered by the ExA when preparing its report and recommendations to the Secretary of State for Transport.

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

¹ Available here: <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/manston-airport/?ipcsection=exam>

² Available here: <http://www.legislation.gov.uk/ukxi/2010/103/article/17/made>

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/manston-airport/?ipcsection=docs>

The Examination Library will be updated at regular intervals as the Examination progresses.

Citation of questions

Each question has a unique reference number. When you are answering a question, please start your answer by quoting the unique reference number.

The unique reference numbers are constructed as follows:

Topic identifier: ExQ round: question number

eg 'LV.1.1' refers to the first question in the first round of ExQs related to landscape and visual effects.

ExQ5	Question to:	Question:
CA.5	Compulsory Acquisition, Temporary Possession and other land or rights considerations	
CA.5.1	<p>The Applicant Stone Hill Park Ltd (SHP)</p>	<p>Acquisition by Agreement</p> <p>A letter from BDB Pitmans LLP dated 2 July 2019 [AS-index number to be allocated] informs the ExA that a subsidiary company of the Applicant, RiverOak MSE Ltd, has exchanged contracts with SHP on 2 July 2019 for the purchase of all of the land it owns at Manston Airport.</p> <p>To SHP</p> <ol style="list-style-type: none"> i. Confirm or otherwise this statement. ii. If this statement is true, provide a submission by Deadline 11 on 5 July indicating the status of your submissions made to date related to Compulsory Acquisition and funding. iii. Indicate whether SHP wishes to withdraw, modify or qualify its objection to the request by the Applicant to compulsorily acquire land and rights over land. <p>The letter from BDB Pitmans LLP dated 2 July 2019 states that: <i>"Completion of the transaction is expected by 11 July 2019 at the latest."</i></p> <p>and that: <i>"The Applicant will provide a fuller summary of its overall case in the light of this significant development, which may not be until completion has taken place. Any</i></p>

ExQ5	Question to:	Question:
		<p><i>submissions made after 9 July 2019 will be made to the Secretary of State for Transport [SoST]."</i></p> <p>The ExA cannot take account of any submissions made after the close of the Examination at 23:59 on Tuesday 9 July 2019 in drafting its Recommendation Report and nor will Interested Parties have access to any submissions made after that time until the SoST has issued a decision on this application.</p> <p>To the Applicant</p> <p>iv. Given this, provide a statement setting out your view of the implications of this development by Deadline 11 on 5 July 2019; and</p> <p>v. given this, provide a final version of the Book of Reference with a statement of any amendments by 23:59 on 9 July 2019.</p>
CA.5.2	<p>The Applicant</p> <p>The RAF Manston Spitfire and Hurricane Memorial Museum</p> <p>The Royal Air Force Manston History Museum Association</p> <p>Mr Marcus Russell, Trustee of the RAF Manston Spitfire and</p>	<p>Museums</p> <p>The Applicant's response to question CA.4.11 (i) to (iii) [REP9- index number to be allocated] states that:</p> <p><i>"The Applicant accepts that owing to commitments it has now made, the museums should no longer be within the scope of compulsory acquisition powers. They will therefore be removed from the final version of the Book of Reference."</i></p> <p>and that:</p> <p><i>"The future plans for the museums are up to the museums themselves and are not either part of this application nor for the Applicant to determine. The Applicant has</i></p>

ExQ5	Question to:	Question:
	Hurricane Memorial Museum	<p><i>simply indicated that it will seek to accommodate the wishes of the museums in so far as it is possible to do so."</i></p> <p>The ExA notes that, for example, the Statement of Common Ground (SoCG) between the Applicant and the Royal Air Force Manston History Museum [REP3-191] states under "<i>Matters agreed in principle between the parties</i>" that:</p> <p><i>"RiverOak are committed to the museum being relocated to a new facility, in consultation between the parties. Upon relocation, RiverOak will ensure that title to the freehold of the land to which the museum will move will be conveyed to the museum".</i></p> <p>and that the SoCG between the Applicant and the RAF Manston Spitfire and Hurricane Memorial Museum [REP3-173] states under "<i>Matters agreed in principle between the parties</i>" that:</p> <p><i>"RiverOak will make a significant financial contribution to the capital costs of a re-located museum on the Northern Grass as well as to the fit-out and removal costs and the parties will work together to secure additional funding from third party sources."</i></p> <p>To the Applicant, the RAF Manston Spitfire and Hurricane Memorial Museum, and the Royal Air Force Manston History Museum Association</p> <p>i. In light of all the above statements, do the SoCGs between the Applicant and the RAF Manston Spitfire and Hurricane Memorial Museum [REP3-173] and the Royal Air Force Manston History Museum Association [REP3-191] still apply?</p>

ExQ5	Question to:	Question:
		<p>To the Applicant</p> <p>ii. In the light of your response to question CA.4.11 (i) to (iii), what is the purpose of setting the Order Limits to include the RAF Manston Spitfire and Hurricane Memorial Museum and the Royal Air Force Manston History Museum?</p> <p>iii. Provide an amended Land Plan and, if required, Works Plan by Deadline 11 on 5 July 2019 – noting that CA.5.1, above, requires a final version of the Book of Reference with a statement of any amendments by 23:59 on 9 July 2019.</p> <p>To Mr Marcus Russell, Trustee of the RAF Manston Spitfire and Hurricane Memorial Museum</p> <p>iv. In the light of the above statements, do you still hold the same views as contained in your statements made on behalf of the RAF Manston Spitfire and Hurricane Memorial Museum at the Open Floor Hearing held on 11 January 2019 [REP1-037]?</p>
Tr.5	Transportation and traffic	
Tr.5.1	The Applicant Kent County Council (KCC)	<p>Passenger Flight Movements</p> <p>The Applicant's response to fourth written question TR.4.4 (iv) [REP9 – index number to be allocated] states:</p> <p><i>"No. The original TA and the revised TA assessed the traffic impact of 188 vehicles and 193 vehicles respectively. As demonstrated above, 2 departure flights between</i></p>

ExQ5	Question to:	Question:
		<p><i>11:00 and 12:00 and 1 arrival flight between 07:00 and 08:00 would result in less traffic than that already assessed”.</i></p> <p>The ExA is considering amending Requirement 19c to read:</p> <p><i>No passenger air transport departures will take place between the hours of 09.00 and 11.30. There shall only be one passenger air transport departure between the hours of 11.30 and 11.44 and one passenger air transport departure between the hours of 11.45 and 12.00. There shall also only be one scheduled passenger air transport arrival between the hours of 07.00 and 08.00.</i></p> <p>i. What is the Applicant’s response?</p> <p>ii. What is the view of KCC?</p>
Tr.5.2	The Applicant	<p>Manston-Haine Link Road</p> <p>KCC’s response to fourth written question TR.4.12 [REP9 – index number to be allocated] states:</p> <p><i>“KCC has reviewed the proposed land safeguarding plans and would request that the offset to the South/East of the proposed road is increased to 10 metres for areas contained within Sheets 5&6 and a 5-metre offset for remaining areas of link southbound towards Manston Road/Spitfire Way junction.</i></p> <p><i>KCC requires safeguarding of land required to deliver an appropriate form of junction at Spitfire Way. This has not been included within the submitted plans and as such remains unresolved. In the absence of an agreed position in relation to the Spitfire Junction design, it is important for as much land to be encompassed within the safeguarding area as possible, to provide scope to alter the junction accordingly. This</i></p>

ExQ5	Question to:	Question:
		<p><i>is essential to ensure that the mitigation offered by the Applicant is deliverable in practice.</i></p> <p><i>All plans should be annotated in the corresponding colour to denote exactly the extent of land being safeguarded as the areas shown in Pink are not currently annotated within the corresponding key”.</i></p> <p>What is the Applicant’s response?</p>
Tr.5.3	The Applicant KCC	<p>Junction 12</p> <p>The Applicant’s response to Fourth Written Question TR.4.29 (ii) [REP9 – index number to be allocated] states:</p> <p><i>“The Applicant has had discussions with KCC about their concerns regarding the uncontrolled right turn lanes, and offered to look at this further. An extended intergreen will aid right turners to discharge with no opposing traffic at the end of the intergreen and will improve the visibility for drivers in the right turn bays by providing an overhang if possible. TR.4.29ii. presents junction modelling to demonstrate this. The junction model has an extra 2 seconds added to the intergreen. Adjustments can be made to right turn bays to improve visibility”.</i></p> <p>i. Does this overcome the concern of KCC with regard to this particular matter?</p> <p>The Applicant’s response to Fourth Written Question TR.4.29 (iii) [REP9 – index number to be allocated] states:</p>

ExQ5	Question to:	Question:
		<p><i>"The RSA did not pick this up as an issue as it is recognised that this a commonplace feature at signal controlled junctions".</i></p> <p>ii. Is this accepted by KCC?</p> <p>The Applicant's response to Fourth Written Question TR.4.29 (v) [REP9 – index number to be allocated] states:</p> <p><i>"Figure 7.5 does indicate that the visibility line is outside of the highway boundary. The extent of the visibility line in relation to the highway boundary and DCO boundary is illustrated in Appendix TR.4.29 which shows that it is a very small section, which is currently grass verge in front of the MOD building and does not present an obstruction. Junction intervisibility in accordance with Design Manual for Roads and Bridges (DMRB) standards (which relate to motorway and trunk roads) is regularly difficult to achieve in urban environments. TD50/04 identifies the 2.5m setback from the stop line and the junction intervisibility requirements thereafter, and makes reference to compromised visibility and mitigation measures that can occur. The junction design and operation including stage extensions and inter-green times etc. will be developed during detailed design".</i></p> <p>iii. Is this acceptable to KCC?</p> <p>The Applicant states that this area of land is grass verge. However, aerial maps (google) show this containing numerous trees. Further, the Applicant's response to Fourth Written Question TR.4.29 (vii) states:</p> <p><i>"A very small area immediately adjacent to the highway, that is currently grass verge, will have to be maintained in its current condition so as not to create an obstruction to visibility. It is extremely unlikely that any infrastructure will be</i></p>

ExQ5	Question to:	Question:
		<p><i>introduced onto this plot of land so as to impede visibility. The ExA can be satisfied that inter-visibility will be maintained".</i></p> <p>iv. Given that this area of land includes trees, justify this response and how this will be achieved.</p> <p>v. Why was this small plot of land not included within the DCO boundary?</p> <p>KCC's response to Fourth Written Question TR.4.29 (xii) [REP9–index number to be allocated] states:</p> <p><i>"The proposed narrowing of the footway on the Manston Road (north) arm to 1.26m is not considered acceptable in the vicinity of this busy junction".</i></p> <p>vi. What is the Applicant's response?</p> <p>vii. Why does KCC consider that this would impact on highway and pedestrian safety?</p>
Tr.5.4	KCC	<p>Junction 15</p> <p>KCC's response to Second Written Question TR.2.42 raised concern that the proposed scheme of mitigation (in the revised TA) results in significantly increased queue lengths on the College Road approach to the junction. The Applicant's response to Third Written Question TR.3.29 sets out that:</p> <p><i>"The issue of queue lengths on College Road can be addressed by minor modifications to the signal timings if reductions in queuing on this arm is a priority".</i></p>

ExQ5	Question to:	Question:
		<p>In response to Fourth Written Question TR.4.31 (i) [REP9–index number to be allocated] the Applicant has provided a Technical Note at (Appendix TR4.31) that seeks to demonstrate this view.</p> <ul style="list-style-type: none"> i. Does this overcome KCC’s concern in this regard? ii. Is KCC content with the mitigation scheme proposed in the original TA?
Tr.5.5	KCC	<p>Alland Grange Junction – Highway Safety</p> <p>The Applicant’s response to Fourth Written Question TR.4.40 (iii) [REP9 – index number to be allocated] states:</p> <p><i>“...No contribution will be made towards the Alland Grange junction as the substandard visibility is a pre-existing issue and therefore requires KCC, under their duties as the highway authority, to maintain road safety and is therefore not secured in the Section 106 agreement. In any event, it is highly unlikely that land owner would secure planning permission to carry out any development that would encroach upon the visibility splays”.</i></p> <p>Do KCC agree with this statement and that no mitigation is required at the junction?</p>
Tr.5.6	The Applicant KCC	<p>Permitted Development Rights</p> <p>KCC’s response to Fourth Written Question TR.4.41 [REP9 – index number to be allocated] states:</p>

ExQ5	Question to:	Question:
		<p><i>"KCC accepts that only those Highways mitigation measures that require planning permission should be included as associated development and granted planning permission via the DCO. The Highway Authority considers that the following mitigation measures do not benefit from permitted development rights and would need be included in Schedule 1 to the DCO:-</i></p> <p><i>Junction Improvements at Alland Grange Lane/Spitfire Way</i></p> <p><i>Proposed signal-controlled junction improvements at Manston Road/ Manston Court Road."</i></p> <p>i. Why does KCC consider that permitted development rights do not apply at these junctions?</p> <p>ii. What is the Applicant's response?</p>
Tr.5.7	The Applicant	<p>Off Site Junction Mitigation Costs</p> <p>KCC's response to Fourth Written Question TR.4.46 [REP9-index number to be allocated] raises numerous concerns with regard to the Applicant's calculated costs for each junction mitigation scheme.</p> <p>What is the Applicant's response?</p>
Tr.5.8	The Applicant	<p>Off Site Junction Mitigation Timing</p> <p>KCC's response to Fourth Written Question TR.4.47 [REP9-index number to be allocated] states:</p>

ExQ5	Question to:	Question:
		<p><i>"The methodology proposed by the Applicant is not fully justified. An arbitrary figure of 100 traffic movements appears to have been used as a benchmark for trigger points at each junction. As has already been highlighted for other junctions on the local highway network, traffic flows below 100 vehicles have been demonstrated to trigger the need for mitigation at several locations. Therefore, KCC requires that these trigger points are varied using appropriate junction modelling tools."</i></p> <p>What is the Applicant's response?</p>
Tr.5.9	The Applicant KCC	<p>Revised Section 106 Agreement</p> <p>The Applicant has provided a revised draft Section 106 Agreement [REP9–index number to be allocated].</p> <ul style="list-style-type: none"> i. Why is a financial contribution for Junction 21 included in Schedule 9, when the Applicant's response to fourth written question TR.4.35 (v) sets out that one is not required? ii. Schedule 7 includes a financial contribution of £500,000 towards the Manston Haine Link Road, is this figure accepted by KCC? iii. Does the map in Annex 5 show the entire land safeguarded for the Manston-Haine Link Road? iv. Why do the maps included in the revised Section 106 Agreement not match those provided in Appendix TR.4.48 to the Applicant's response to Fourth Written Questions?

ExQ5	Question to:	Question:
		<p>The Applicant's response to Fourth Written Question TR.4.53 (vi) [REP9-index number to be allocated] states:</p> <p><i>"An allowance of £2500 has been included for this signage and has been included in the draft S106 Agreement. This is based on a requirement for ten signs at £250 per sign".</i></p> <p>v. Where in the revised draft S106 Agreement [REP9-index number to be allocated] is this secured?</p>
Tr.5.10	The Applicant	<p>Register of Environmental Actions and Commitments (REAC)</p> <p>The amended REAC provided at Deadline 8 [REP8-018] includes mitigation for Junctions 2, 4, 6, 7, <u>12</u>, 13, 15, 16, <u>20</u> and 21. However, the Revised draft Section 106 Agreement [REP9- index number to be allocated] includes Junctions <u>1</u>, 2, 4, 6, 7, <u>10</u>, 13, 15, 16, 17 and 21.</p> <p>Why are these not consistent (differences underlined above)?</p>
Tr.5.11	The Applicant	<p>Controlled Parking Zone</p> <p>The Applicant's response to Fourth Written Question TR.4.51 (iv) [REP9-index number to be allocated] states:</p> <p><i>"The Applicant has asked TDC to provide a figure to cover the Car Park Management Strategy but has yet to receive a response. TDC has apologised for this delay and is endeavouring to provide this as soon as possible".</i></p>

ExQ5	Question to:	Question:
		<p>Thanet District Council (TDC) in their response to Fourth Written Question TR.4.51 state:</p> <p><i>"TDC questions the extent to which a CPZ contribution is necessary given the proposed overprovision of parking on site, although it is noted that the Applicant may charge both passengers and staff to park on site [Appendix ISH-52, section 3.3 [REP8-017]].</i></p> <p><i>TDC's view is that for a Controlled Parking Zone where all on-street parking is controlled, with parking only permitted in designated bays and the remaining street covered by double yellow line restrictions, the approximate cost would be £260 per metre. This includes line painting, bay marking, legal consultation, order implementation, public notices and signage. TDC has not seen any information from the Applicant as to either the general area or specific streets in which a CPZ would be proposed".</i></p> <p>i. What is the Applicant's response?</p> <p>ii. What areas would be covered by the CPZ?</p>
Tr.5.12	The Applicant	<p>Bus Services</p> <p>The Applicant's response to Fourth Written Question TR.4.55 (iii) [REP9-index number to be allocated] states:</p> <p><i>"This has been based on the provision of one bus service. The Applicant will fund the shuttle bus and will not make a contribution to a third party for this service. In addition, the Applicant proposes an annual contribution for the enhancement of local</i></p>

ExQ5	Question to:	Question:
		<p><i>buses of £150,000. That figure calculated is based on the cost of one additional bus per annum”.</i></p> <p>i. What evidence has the Applicant used to estimate that the cost of one additional bus per annum would be £150,000?</p> <p>ii. Is the addition of one bus sufficient?</p>
Tr.5.13	The Applicant	<p>Preliminary Freight Management Strategy</p> <p>KCC’s responses to Fourth Written Question TR.4.53 (vi) and (ix) [REP9–index number to be allocated] state:</p> <p><i>“All costs associated with HGV signage strategy should be met by the Applicant. It is recommended that a requirement is included within the DCO for the submission and subsequent implementation of a signage strategy by the Applicant. This strategy document should be submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority), prior to commencement of the development. The approved signage strategy should be implemented in full prior to first occupation of the Airport or Northern Grass Area”.</i></p> <p><i>“As development within the Northern Grass is intended to be aviation related, KCC see no reason why restrictions should not also apply to development located in the part of the site”.</i></p> <p>What is the Applicant’s response?</p>
Tr.5.14	The Applicant	Manston Village Pedestrian Links

ExQ5	Question to:	Question:
		<p>KCC's responses to fourth written question TR.4.54 [REP9 – index number to be allocated] states:</p> <p><i>"An obligation to fund an upgrade of TR10 is welcomed; however, in isolation, this does not provide appropriate connectivity between the terminal building, Manston Village and future residential settlements to the east.</i></p> <p><i>Journeys to and from the site would also rely on travel within parts of PRow TR8 and TR9... As such these routes also require improvements to enable them to be used all year round".</i></p> <p>Further, KCC has suggested alternative costings.</p> <p>What is the Applicant's response to these matters?</p>
Tr.5.15	The Applicant KCC	<p>Technical Note: Appendix TR.4.1 - A256 - Junctions Assessments</p> <p>The Applicant at Deadline 10 provided a Technical Note [REP10–index number to be allocated] that sets out the results of junction modelling to assess the potential impact along the A256 corridor (based on the original TA).</p> <p>i. Provide a map showing the exact locations of the junctions assessed.</p> <p>The Technical Note states: <i>"The following three junctions have been modelled based on junction models and baseline traffic data available in the Discovery Park Transport Assessment (Planning ref: 14/00058)".</i></p> <p>ii. Is it appropriate to use this data source that is over 5 years old?</p>

ExQ5	Question to:	Question:
		<p>iii. If not, how will this matter be addressed by the end of the examination?</p> <p>iv. Is this accepted by KCC?</p> <p><u>A256/Ramsgate Road/Copart Access Junction</u></p> <p>The Technical Note at Paragraphs 2.2.4 and 2.2.5 states:</p> <p><i>"In the AM Peak there is an increase in queuing of 3 vehicles on the A256 North arm, with a marginal change in RFC on other arms. It is considered that this is not a significant impact".</i></p> <p><i>"In the PM Peak there is an increase in queuing of 28 on the Ramsgate Road arm and 1 on the A256 North arm, with a marginal change in RFC on some of the arms".</i></p> <p>The Technical Note at Paragraph 2.2.6 also suggests that this is a similar level of impact as that presented in the Discovery Park Transport Assessment, which was accepted by KCC as not severe and not requiring mitigation.</p> <p>v. Does KCC accept that such impacts are not severe?</p> <p>Paragraph 2.2.7 of the Technical Note goes on to state:</p> <p><i>"Consideration has been given to junction improvement within the highway boundary, and a minor increase to the flare on the Ramsgate Road arm from 6.7 to just 15m would result in betterment on nil detriment".</i></p> <p>vi. Will the Applicant therefore be providing a junction mitigation scheme supported by a Stage 1 Road Safety Audit and Designer's</p>

ExQ5	Question to:	Question:
		<p>Response before the close of the examination, with sufficient time for other parties to consider?</p> <p><u>A256/Monk's Way</u></p> <p>Paragraph 2.3.4 of the Technical Note states:</p> <p><i>"In the AM Peak there is an increase in queuing of 1 vehicle on the A256 North arm and 9 vehicles on A256 South arm, with a marginal change in RFC on A256 South arms. In the PM Peak there is an increase in queuing of 1 on the A256 North arm, with a marginal change in RFC on some of the arms. It is considered that this is not a significant impact".</i></p> <p>vii. Is this accepted by KCC?</p> <p><u>A256/Ash Road/A257</u></p> <p>The Technical Note at Paragraph 2.4.5 identifies that:</p> <p><i>"The development impact is predominantly on the A256 South arm in the AM peak (queue increase of 156 vehicles and RFC change of 0.08) and the A256 North in the PM peak (queue increase of 93 vehicles and RFC change of 0.09)".</i></p> <p>viii. Does the Applicant accept that this is a severe impact?</p> <p>Paragraph 2.4.9 of the Technical Note states:</p> <p><i>"The impact of the Manston Airport traffic is similar or less than that of Discovery Park which did not result in the need for a mitigation scheme".</i></p>

ExQ5	Question to:	Question:
		<p>ix. Is it reasonable to compare the impacts of the proposed development against one determined 5 years ago?</p> <p>x. What is the view of KCC on this matter?</p> <p>Paragraph 2.4.3 of the Technical Note states: <i>"KCC has acknowledged during discussion that the junction has capacity issues and that the highway authority needs to identify an improvement scheme to address this, with the expectation that developers would contribute to this".</i></p> <p>xi. On this basis, will the Applicant be making a financial contribution to mitigation at this junction?</p> <p>xii. If so, how will this be calculated and provided for?</p> <p>xiii. What is the view of KCC on this matter?</p> <p>The Technical Note concludes at Paragraph 3.1.1: <i>"The results of the modelling exercise show that the development traffic through the junctions has less of an impact than Discovery Park Development that was granted permission that did not offer any mitigation improvements at the junctions despite putting a larger amount of traffic onto the junctions in the peak hours".</i></p> <p>xiv. Is this accepted by KCC?</p> <p><u>Air Quality and Noise</u></p> <p>xv. Have these additional impacts been modelled in the air quality and noise assessments?</p>

ExQ5	Question to:	Question:
		xvi. If not, how will this be addressed by the end of the examination, with sufficient time for other parties to consider?