

MANSTON AIRPORT DEVELOPMENT CONSENT ORDER EXAMINATION

SUBMISSION TO DEADLINE 11:

**Comments on Information requested by the ExA and received from the
Applicant to Deadline 10**

Comment on Response to ExA 4th Written Questions

And

Comment on Applicant's Technical Note at EC 4.2

AND

**Comment on Natural England's comments on the Report of the Implications
for European Sites (DL10)**

1. We note that Natural England wrote to the ExA on 1 July 2019 submission at [\[REP10-XXX\]](#)¹ titled Natural England's comments on the Report of the Implications for European Sites (REIS).
2. In [\[REP10-XXX\]](#)² it refers to the Applicant's Appendix Technical Note Ec4.2 [\[REP9-XXX\]](#)³ submitted at Deadline 9.
3. Natural England state at paragraphs 5/6 of [\[REP10-XXX\]](#)⁴:
"Appendix Ec.4.2 demonstrates that the proposed flightpath is similar to that used by the previous Manston Airport, and the noisiest planes that used to fly from Manston would not be allowed at the new airport. Therefore, although the previous airport caused fewer peak noise events, these would have been louder than would be produced by the proposed operations. As the previous disturbance study did not specifically note disturbance by commercial aircraft, even though the planes would have

¹ Natural England's comments on the Report of the Implications for European Sites of 1 July 2019 TR020002-004583

² Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

³ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

⁴ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

caused greater peak noise events, this provides evidence for the Applicant's assertions regarding the absence of impacts. Therefore, Natural England is **satisfied that Appendix Ec.4.2 provides sufficient evidence to resolve our uncertainty** over noise disturbance impacts on turnstones in Pegwell Bay. We accept that, for the reasons set out in **section 3 (Assessment) of the Appendix, an adverse effect on integrity can be ruled out**" (bold added for emphasis).

Appendix Ec.4.2 [REP9-XXX]⁵

4. We note that at Line 1, Paragraph 2 of Page 3 of Ec.4.2 [REP9-XXX]⁶ the Applicant states:

*"The risk of the noisiest aircraft being operated in future is minimized by the **Quota Count approach detailed in the Noise Mitigation Plan [REP8-004]**"*

- a) We respectfully remind the Examining Authority that **Natural England's comments on the Report of the Implications for European Sites [REP10-XXX]**⁷ are based on the **evidence provided** by the Applicant in **Appendix Ec.4.2 [REP9-XXX]**⁸ (ie [REP8-004]).
- b) At Deadline 9 the Applicant submitted a revised Noise Mitigation Plan [REP9X-XXX]⁹ which **superseded** [REP8-004].
- c) The Quota Count approach was changed in [REP9X-XXX]¹⁰
- d) The change to the Quota Count approach is a material change between [REP9X-XXX]¹¹ and [REP8-004].

⁵Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

⁶ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

⁷ Natural England's comments on the Report of the Implications for European Sites of 1 July 2019 TR020002-004583

⁸Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

⁹ Revised 2.4 Noise Mitigation Plan TR020002/D9/2.4 Examination Document 28 June 2019

¹⁰ Revised 2.4 Noise Mitigation Plan TR020002/D9/2.4 Examination Document 28 June 2019

¹¹ Revised 2.4 Noise Mitigation Plan TR020002/D9/2.4 Examination Document 28 June 2019

- e) As such, we respectfully submit the Applicant and the Examining Authority and the Secretary of State cannot rely on the 1 July 2019 submission at [\[REP10-XXX\]](#)¹² titled Natural England's comments on the Report of the Implications for European Sites (REIS).
- f) As such, we respectfully submit the Applicant and the Examining Authority and the Secretary of State cannot rely on Natural England's Answers to the Examining Authority's Fourth Written Questions at EC.4.2 in relation to the Turnstone Mitigation¹³ [\[REP9-XXX\]](#).

Appendix Ec.4.2 [\[REP9-XXX\]](#)¹⁴

5. We, also, note that at Line 9, Paragraph 2.1 of Page 2 of Technical Note Ec.4.2 [\[REP9-XXX\]](#)¹⁵ the Applicant states:

"The flight path shown is very similar to the flight path previously used which, based on the feedback from Natural England, would not result in disturbance of turnstone in Pegwell Bay"

- a) We respectfully reiterate that we do not believe the Applicant has provided evidence to validate its noise contours or to refute those submitted by Five10Twelve and produced by the CAA's ERCD.
- b) We submitted a detailed evidence supported submission at Deadline 9 [\[REP9-XXX\]](#)¹⁶ to support the above statement.
- c) Further evidence of the lack of validity of the Applicant's claims regarding its own noise contours and its rebuttal of those submitted by Five10Twelve is found here at Paragraph 2.1 in the Applicant's Appendix Technical Note Ec.4.2 [\[REP9-XXX\]](#) ¹⁷

¹² Natural England's comments on the Report of the Implications for European Sites of 1 July 2019 TR020002-004583

¹³ Natural England's Answers to the Examining Authority's Fourth Written Questions of Deadline 9

¹⁴ *Ibid*

¹⁵ *Ibid*

¹⁶ TR020002-004581, Clarification Item 27, ERCD Noise Contour Comments

¹⁷ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

submitted at Deadline 9 and Natural England's comments on the REIS submitted to Deadline 10 [REP10-XXX]¹⁸.

- d) These submissions by Natural England and the Applicant confirm that an agreement has been reached between them on the basis that the Applicant's "***proposed flightpath is similar to that used by the previous Manston Airport***".
- e) As the ExA will be aware, in its Technical Note ISH6-27 found at [REP8-015], Clarification Item 27, the Applicant sought to refute the noise contours submitted by Five10Twelve and produced by the CAA/ERCD partially on its assertion that "*it is highly unlikely that the CAA would adopt the same flight paths as previously used*".
- f) This therefore serves both as evidence which supports our own assertion that the previous Manston flight paths are entirely credible whilst also providing further evidence of:
- The Applicant's willingness to shape its argument and evidence according to which point it is trying to make and to which Statutory Body or stakeholder on which day;
 - We respectfully remind the Examining Authority that in [AS-119], we provided evidence to refute the Applicant's assertions and confirm that the same flight paths as previously used as "*a credible option under CAP 1616 and FASI-S*" and were accepted by the CAA (ERCD) on this basis.

Appendix Ec.4.2 [REP9-XXX]¹⁹

6. We note that at last paragraph Page 2 and Line 1, Paragraph 1 of Page 3 of Ec.4.2 [REP9-XXX]²⁰ the Applicant states:

"The DC8-62 and Boeing 747-200, which comprised the majority of air transport movements, are noisier aircraft than any of the fleet proposed

¹⁸ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

¹⁹ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

²⁰ Applicant's Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

when the airport reopens. The **Boeing 747-400** was the quietest of the three” (bold added for emphasis).

- a) The Applicant in its footnote at (3) states that Appendix 3.3 [APP-044] of Environmental Statement Chapter 3 [APP-033] details the proposed fleet mix
- b) We respectfully draw the Examining Authority to our submissions of [REP9-XXX]²¹ and [AS-206] which evidence the significant difference between Turboprop planes (as assessed in the ES) and Turbojets.
- c) We respectfully request again that Requirement 19a of the draft DCO should reflect the fleet mix and more specifically the proportion of Turbofan (jet) aircraft and the proportion of Turboprop aircraft (*ie: to no more than 12,860 cargo aircraft movements can be by Turbofan (jet) aircraft*)²²
- d) Under the revised Noise Mitigation Plan [REP9X-XXX]²³ during the daytime aircraft with a Quota Count of 4, Quota Count 8 and Quota Count 16 would be able to take off and land at the airport from 07:00-23:00 it is therefore not correct to say that noisier planes like DC8-62 and Boeing 747-200 will not take-off and land.
- e) It is unclear where (if at all) the following mitigation measures are anchored: less noisy planes than **DC8-62 and Boeing 747-200**.
- f) An Updated Register of Environmental Actions and Commitments has not been submitted for Deadline 10.

Appendix Ec.4.2 [REP9-XXX]²⁴

7. We note that at paragraph 7, Section 3 of Ec.4.2 [REP9-XXX]²⁵ the Applicant states:

²¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020002/TR020002-004380-AS%20Five10Twelve%20Environment%20and%20Air%20Quality.pdf>

²² https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020002/TR020002-004568-Five10Twelve_Deadline%209%20-%20Comment%20on%20Requirement%2019a-%20Airport%20Operations%20-WITH%20APPENDICES.pdf

²³ Revised 2.4 Noise Mitigation Plan TR020002/D9/2.4 Examination Document 28 June 2019

²⁴ *Ibid*

*“The Flights will be **infrequent** with the **predictability of flight paths** again reducing the potential for disturbance, and the **loudest planes make up a relatively small proportion** of the forecast fleet and that only **certain flight directions will occur on any one day**”*

- a) It is unclear where (if at all) the following mitigation measures are anchored:
- *The Flights will be **infrequent**;*
 - ***predictability of flight paths***
 - ***loudest planes make up a relatively small proportion***
 - ***certain flight directions will occur on any one day***
- b) An Updated Register of Environmental Actions and Commitments has not been submitted for Deadline 10.
- c) **As such, we respectfully submit the Applicant and the Examining Authority and the Secretary of State cannot rely on the 1 July 2019 submission at [REP10-XXX]²⁶ titled Natural England’s comments on the Report of the Implications for European Sites (REIS).**
- d) **As such, we respectfully submit the Applicant and the Examining Authority and the Secretary of State cannot rely on Natural England’s Answers to the Examining Authority’s Fourth Written Questions at EC.4.2 in relation to the Turnstone Mitigation²⁷ [REP9-XXX].**

²⁵ Applicant’s Appendices to Answers to Fourth Written Questions TR020002/D9/FWQ / Appendices Examination Document 28 June 2019

²⁶ Natural England’s comments on the Report of the Implications for European Sites of 1 July 2019 TR020002-004583

²⁷ Natural England’s Answers to the Examining Authority’s Fourth Written Questions of Deadline 9