

The Rt Hon Grant Shapps
The Secretary of State for Transport
Department for Transport
Zone 1/18, Great Minster House
33 Horseferry Road
London SW1P 4DR

BY EMAIL:

transportandworksact@dft.gov.uk

Cc: Rob.Pridham@dft.gov.uk

19 December 2019

Dear Sir

RiverOak Strategic Partners (“the Applicant”)
Proposed Manston Airport Development (“Manston”)
Development Consent Order (“DCO”)
New Evidence: Correspondence received from the Civil Aviation Authority (“ the CAA”)

There is a material and significant risk that the Applicant will not be granted an aerodrome and/or airspace.

NO AERODROME

1. We respectfully draw your attention to correspondence received from the CAA as of 22 November 2019 (enclosed).
2. The CAA has confirmed that it does not believe that the Applicant is an aerodrome operator.
3. The CAA correspondence states at paragraph 2, line 6 (bold added for emphasis):

“For the avoidance of any doubt we in the AREE team do not believe that [the Applicant] is an aerodrome operator...”

4. As you will be aware, an aerodrome is a regulatory requirement of an airport.

NO AIRSPACE

5. The CAA correspondence further states at paragraph 3, line 1 (bold added for emphasis):

“Once Manston has submitted their airspace change proposal to the CAA (and we in the AREE team understand that is expected to be in May 2021)...”

6. As you will be aware planes need airspace to fly in.
7. The Applicant does not have any airspace.
8. The Applicant has not shown any evidence of a single air cargo operator wishing to relocate and move and/or locate its operations to Manston (if reopened).
9. As you will be aware the regulatory application process for airspace under CAP 1616, once a formal application is received, is over 2 years long with no guarantee of the CAA granting the Applicant airspace.
10. Without any airspace at Manston for at least 3 years, it is significantly likely that Manston (if reopened) will not attract air cargo operators; it cannot even offer the hope of reliable and certain airspace.
11. Air cargo operators will continue to invest in and use other airports which are operational with airspace, an aerodrome, a logistics infrastructure, a large catchment area and a resilient surface access throughout the South East, South West, the Midlands engine and the Northern powerhouse.
12. The Applicant simply cannot offer speed, reliability, resilience and certainty to an air cargo operator or to a potential investor.
13. It is of note to recall that when Manston was open and when it did have airspace, commercial operations repeatedly failed under three different owners. Kent County

Council's March 2015 Position Statement¹ on Manston Airport confirms that *"the airport has never made a profit and has never delivered on its promise of jobs for the area"*.

14. Past failures include the collapse of Planestation, with the Applicant's founding Director Tony Freudmann acting as Senior Vice President, and its budget airline subsidiary, EUJet, in 2005. Commenting on the collapse at the time, the Financial Times reported that *"marketing a new airline operation from Manston, which had no recent history of passenger operations, had been difficult"* and the Planestation Group *"had also **failed to develop its cargo business at Manston**"*.
15. This led to questions in the House of Commons and a CAA briefing paper for the Department of Transport Select Committee on 04/02/06² after more than 5,400 British passengers were left stranded in similar circumstances to the recent Thomas Cook collapse. The briefing paper notes that Planestation PLC had filed misleading information about EU Jet with the CAA which left the regulator *"unaware of the actual financial position of that carrier"*.
16. Lothian Shelf (417) Limited, a company owned by Stagecoach founder, Ann Gloag, bought Manston for £1 in November 2013. In the ensuing months the airport made revenue losses of £100,000 per week plus significant capital losses before its closure in May 2014.

REFUSED AIRSPACE APPLICATION (if and when received)

17. The CAA also make clear (bold added by the CAA) that it is not actually sure that it will receive a formal application stating at paragraph 5:

*"...Manston's formal airspace change proposal **if and when we receive one**"*.

18. The CAA also make clear at paragraph 4 that the Applicant will undergo (bold added for emphasis):

*"[A] detailed analysis that [CAA] complete is recorded in a **"consultation assessment"** which, alongside the **operational and environmental assessments**, underpins [CAA] **final regulatory decision** whether or **not to approve** the change to airspace design requested"*.

¹ Manston Airport under private ownership, Kent County Council 2015
https://www.kent.gov.uk/_data/assets/pdf_file/0003/29541/Manston-Airport-position-statement.pdf

² Memorandum submitted by the CAA: Briefings on EUJET Ops Ltd
<https://publications.parliament.uk/pa/cm200506/cmselect/cmtran/636/5110212.htm>

REFUSED AIRSPACE APPLICATION (if and when received) : OPERATIONAL AND ENVIRONMENTAL GROUNDS

19. Five10Twelve and many others, including but not limited to independent aviation consultants Altitude Aviation and York Aviation, provided evidence throughout and after the Examination to the Secretary of State which demonstrated that the operational and environmental statements of the Applicant are severely wanting.
20. Further, as you will be aware, the Applicant's Overall Summary of Case stated that its Environmental Statement assessed '*likely significant effects*'; however, in the Applicant's CAA Interface Document it states that at workshops with the CAA and within its Executive Summary that "*the DCO submission will be based on 'worst credible' scenarios (in terms of environmental impact)*".
21. In fact, the Applicant presented the Environmental Statement using the best case scenario.
22. We have already provided the Secretary of State with a letter of 27 October 2019 rebutting the Applicant's Overall Summary of Case: Environmental Statement and demonstrating that the Applicant's Environmental Statement is materially and significantly inaccurate.
23. Under separate cover we will be writing again to the Secretary of State with further new evidence to further demonstrate that the Applicant's Environmental Statement to the DCO is materially and significantly inaccurate.
24. There is a significant risk that the Applicant will be refused airspace on operational and/or environmental grounds.

REFUSED AIRSPACE APPLICATION (if and when received) : CONSULTATION

25. As you will be aware Manston sits within Thanet District Council; it is the local council (the 'Council').
26. The Council submitted to the UK Planning Inspectorate its response to the Adequacy of the Consultation Representation ("**AoC-005**").
27. As you will be aware under Section 47 of the Planning Act 2008 there is a Duty to Consult the Local Community.
28. The Council clearly state within AoC-005 that:

- a. *"The first statutory consultation is not considered to comply with Section 47(5) of the Planning Act 2008"*.
 - b. Further with regard to the second statutory consultation, *"...It is unclear whether the Applicant has complied with Section 47(5) of the Planning Act 2008 and whether sufficient regard has been had to the Council's comments"*.
 - c. *"...The Council are unable to confirm that the Applicant has complied with Section 47(7) of the Planning Act 2008 from the evidence before the Council at this time"*.
29. Therefore as stated and evidenced by the Council there has been an inadequate consultation and engagement with the Local Community. As such the Applicant cannot rely on the consultations of the DCO for the Airspace Change Process in any regard.
30. Further, a detailed Section 42 consultation response from the Council (the Council's Stage 3 response) was not taken into account by the Applicant.
31. It is of particular note that the Applicant has evidenced that it will continue with the same approach of constraining consultation with and to only those in favour of the airport reopening in relation to future CAA applications.
32. The founding director of the Applicant can be heard on record at a recent AGM³ stating that the approach the Applicant will take for the Airspace Change Proposal CAA consultation will be as follows (bold added for emphasis):
- "...for those people in Ramsgate [the area to the East of Manston that planes will overfly at altitudes of 200-700 feet] in particular who are genuinely interested in the impact of the airport **as opposed to it not happening at all** there will be a further opportunity for them to have a dialogue here"*.
33. This approach is contra to the CAP 1616 regulatory consultation process for airspace change.
34. There is a significant risk that the Applicant will be refused airspace on flawed/ inadequate consultation grounds.

CONCLUSION

³ <https://www.youtube.com/watch?v=Fvepzwlh30I> (starting at time code from 13:45)

A development without an aerodrome and airspace it not an airport. This will deter, curtail or prevent any potential investment in Manston and there is a significant risk that the development (if granted) and the benefits (if any) will not be realised. If the DCO is granted and not realised, this is also a high risk for us locals and will pause or retrograde the positive inward investment and a real upward trajectory of employment that has happened here in Ramsgate and the wider Thanet since the airport closed as the very threat of low flying cargo planes of 200-600 feet over our shopping town centre, gardens, schools, houses, parks, beaches will exist in the minds of inward investors. It will also come up in house/ property searches. With much of our heritage at risk including the whole of the Conservation Area (which is the largest in Kent) the mere threat of such a development will have far reaching, long lasting and perhaps irreversible consequences, irrespective of whether or not it ever materialises. The DCO should be refused.

Further, the Applicant must meet the criteria for a NSIP. The Applicant has made an application for a DCO pursuant to paragraphs 14(1)(i) and 23(1)(b) and 23(5)(b) of the Planning Act 2008 specifically that the effect of the alteration of the airport is to increase by at least 10,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.

At the time of the DCO application, the number of air transport movements of cargo aircraft for which the airport was capable of providing air cargo transport services was zero. In fact, the Applicant confirmed during the DCO Examination that "*the current capability of (Manston) airport to provide air cargo transport services is zero*"⁴.

Without airspace, the number of air transport movements of cargo aircraft for which the airport will be capable of providing air cargo transport services **will continue to be zero** and will not meet the requirements of the Planning Act 2008. The DCO should be refused.

Enclosure:

Correspondence received from the CAA as of 22 November 2019

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<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-003770-D5%20Cover%20Letter.pdf>

From: Airspace User Response Airspace.UserResponse@caa.co.uk
Subject: FCS 1521 form submission - Submission id: 422205 - Manston Airport
Date: 22 November 2019 10:39
To: [REDACTED]

AU

Dear Ms Jones-Hall,

Thank you for CC sight of your email dated 15th November 2019 concerning the possible re-activation of Manston Airport (ACP 2018-75). Your email has been transposed onto our system and has been given reference **422205 dated 18/11/2019**. **To facilitate traceability and good governance please quote this reference in any subsequent communication with us on this topic**. If you wish to contact us again in the future on a different matter, please use our on-line enquiry form FCS 1521: www.caa.co.uk/fcs1521. Use of this form will mean that your submission is automatically issued an appropriate reference number and recorded in our systems. **If you raise this matter on social media, please do not include our email address but refer to the provided link instead**. For the reason given above, this will have the benefit of significantly reducing any delay to a response from us.

Firstly we would like to make clear that an aerodrome operator's engagement with its local community is solely the responsibility of that operator and that the CAA plays no part in that process, hence we cannot comment on their focus group/questionnaire. Consequently we respectfully suggest that you seek an answer to your question from the Manston themselves or from River Oak Strategic Partnership (RSP) who we believe are the sponsors of the proposal. For the avoidance of any doubt we in the AREE team do not believe that RSP is an aerodrome operator but there is nothing to prevent them from progressing a proposal at this time. Our regulation activity associated with this proposal will be conducted under the CAP1616 process and detailed information on that process can be found here: <https://www.caa.co.uk/Commercial-industry/Airspace/Airspace-change/Permanent-airspace-change-proposals-under-CAP1616/> .

Once Manston has submitted their airspace change proposal to the CAA (and we in the AREE team understand that is expected to be in May 2021), it is our responsibility to undertake a detailed "consultation assessment" during Stage 5 (Regulatory Decision) of the airspace change process. At this stage we formally assess whether the content of the consultation meets our requirements and review the way in which the consultation has been conducted in order to determine whether or not the required standards were met. We will assess the consultation material and the methodology applied by Manston and review their management of correspondence received from stakeholders during the consultation period to ensure that its contents have been properly captured and, where appropriate, responded to. We will look closely at the key issues and concerns raised by all stakeholders, how they have been taken into account by the sponsor and consider any revisions that may have been made to the original proposal. We will also take into account any representations that have been made directly to us.

The detailed analysis that we complete is recorded in a "consultation assessment" which, alongside the operational and environmental assessments, underpins our final regulatory decision whether or not to approve the change to airspace design requested. We publish these assessments on the airspace change pages of the CAA website. We would encourage you to keep abreast of further developments by monitoring the updates and associated documentation that will eventually be made available on our website.

Whilst the content of your submission is noted, we hope that you will understand that it would not be appropriate for us to comment further at this moment in time as to do so could risk prejudicing the outcome of our regulatory assessment of Manston's formal airspace change proposal **if and when we receive one**. In the meantime may we again respectfully

suggest that you contact Manston/RSP with regard to their community engagement process.

Finally, as the CAA is tasked by the Government to provide a focal point for Aviation Related Environmental Enquiries and Complaints, the details of your email have been logged onto our complaints and enquiries database for future reference as may be required.

Thank you again for contacting the CAA.

Yours sincerely,

Aviation Related Environmental Enquiry (AREE)
Airspace Regulator (Co-ordination)
Airspace, ATM and Aerodromes
Safety and Airspace Regulation Group
Civil Aviation Authority

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