

CORPORATE RESOURCES

Please ask for: Iain Livingstone

Email: iain.livingstone@thanet.gov.uk

Date: 31/01/2020



Susan Anderson
Head of Transport Infrastructure Planning

Dear Ms Anderson,

Application by RiverOak Strategic Partners to upgrade and reopen Manston Airport

Request for comments and further information

Please find below Thanet District Council's response to the request for comments and further information by the Secretary of State.

Unilateral Undertakings

1. The Secretary of State seeks comments from Kent County Council and Thanet District Council in relation to their respective Unilateral Undertakings, that were submitted on 9 July 2019 (the final day of the examination), in relation to the appropriateness of RiverOak Fuels being the named party in those Undertakings.

The applicant stated in answers to fourth written question F.4.14:

"i. In order to enter into a s.106 obligation a contracting party must be a 'person interested in land'. That interest must be a proprietary interest and the s.106 obligation must state the party's interest in the land (s.106(9)). A party cannot bind land in which it has no interest through a s.106 obligation. In this case, RiverOak Fuels Limited owns land – the Jentex site, whereas the Applicant does not. It is therefore appropriate for RiverOak Fuels Limited to enter into the s.106 obligation."

Thanet District Council understands that Riveroak Strategic Partners (RSP) has now purchased the Manston Airport site. Given that a new Unilateral undertaking requested under item no.4 of the letter of the 17th January 2020 is expected to be submitted, it would appear necessary that the new undertaking is made by the site owners to ensure that the obligation binds them as owners of Manston Airport to the requirements of the undertaking.

2. The Secretary of State invites views from Thanet District Council regarding the level of the financial payments proposed in the Unilateral Undertaking representing the Applicant's contribution for the Air

Reception: 01843 577000

Email: customer.services@thanet.gov.uk

Web: thanet.gov.uk

Facebook: [@ThanetDistrictCouncil](https://www.facebook.com/ThanetDistrictCouncil)

Twitter: [@ThanetCouncil](https://twitter.com/ThanetCouncil)

Head office: Cecil St, Margate, CT9 1XZ

Quality Station ZH3 and whether that commitment will ensure the air quality in Thanet Air Quality Management Area is not negatively impacted by the Development.

Thanet District Council agreed the proposed contribution towards the operation and continuous monitoring of Air Quality Station ZH3 during the examination of the proposed Development Consent Order. Thanet District Council's view on air quality in relation to the proposal is set out in the Council's Local Impact Report (REP3-010) and response to first written questions (REP3-018). The Council has outlined that the mitigation measures should be provided by the Airport in accordance with Thanet District Council's Air Quality Technical Planning Guidance (2016) and these are likely to be needed in order to fully offset the potential impacts of emissions resulting from the proposed development in the Thanet Air Quality Management Area (AQMA). The commitment for a contribution does not mean that air quality in the Thanet AQMA is not negatively impacted by the development. The contribution will mean that the Council can monitor air quality whilst the airport is in operation to confirm the effectiveness of proposed mitigation measures.

Transport/Controlled Parking Zones

7. The Secretary of State invites the views of Thanet District Council on the acceptability of the Applicant's proposed 890 metres of controlled parking and the assumptions of its costs that would equate to a financial contribution of £231,400 and the provision of an annual payment of this amount for 20 years.

Thanet District Council has responded on this matter in its response to fourth written questions (REP9-026) question TR4.51. Our previous response is provided below:

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]].

TDC's view is that for a Controlled Parking Zone (CPZ) 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.

The applicant provided further details of a proposed 890metres controlled parking in response to the ExA's fifth written questions TR 5.11 (REP11-002), with a plan submitted at Appendix TR5.11 (REP11-003). TDC would consider the need for a CPZ (with the extent shown) depending on the impact from the operation of the development, following the monitoring required in the applicant's travel plan. Any CPZ would also be subject to local consultation and discussion with Kent County Council. Therefore TDC cannot confirm that the 890metres of controlled parking would be acceptable at this stage, given that the extent of the/any impact is not understood. However the cost per metre of any CPZ (if needed) has been agreed.

The ongoing payment part of the undertaking appears to have been made in error and Thanet District Council understands that this will be removed within the new unilateral undertaking submitted under request no.4.

Draft Development Consent Order

14. The Secretary of State invites the Applicant and other Interested Parties to comment on revised wording in relation to requirement 19 (airport-related commercial facilities) for inclusion in any DCO that might be granted in due course:

“Works Nos 15,16 and 17 must only be developed and used where the local planning authority has agreed in writing that those works have a direct relationship to and support the operation of Works Nos. 1 to 11 and 13”.

Thanet District Council and the applicant agreed the following wording after the final hearing on the Draft Development Consent order for requirement 19:

‘Buildings comprised in Works Nos. 15, 16 and 17 must not be occupied before:

- a) the aerodrome is granted EASA certification; and*
- b) the commencement of operation of Work No.1 (or any part thereof).’*

The requirement is to ensure that the Airport use on the site to the south of Manston road has come into operation prior to the occupation of any units on the ‘northern grass site’, meaning there is a clear connection between “airport-related” development and the authorised development (also supported by the definition of “airport-related”). The proposed wording of Requirement 19 would not require any works to have begun under Works 1 to 11 and 13, whereas the previous wording included a clear identification that the commencement of work on the airport site must occur prior to the occupation of any of the airport-related development on the “northern grass” area. TDC respectfully requests that the Secretary of State revises the wording of the proposed requirement to include this restriction.

15. The Secretary of State seeks the views of the Applicant, Thanet District Council (who would have responsibility under any made DCO of discharging such a Requirement) and other Interested Parties in relation to the definition of “airport related” in article 2 for inclusion in any DCO that might be granted in due course. This would read:

““airport-related” development means development directly related to and required to support operations at Manston Airport including, but not limited to freight distribution centres, including freight forwarding and temporary storage facilities”.

Thanet District Council responded to the definition of “airport-related” development in response to fourth written questions (REP9-026) in the Second Draft Development Consent Order. Our previous response is provided below:

TDC notes that the definition of “airport-related” still does not reflect the wording proposed by TDC in its Deadline 7 submission [REP7-016]. In particular, TDC considers that airport-related development should be required to “demonstrate both a direct relationship to operations at Manston Airport and a requirement to be located at Manston Airport in order to support those operations”. The current wording simply required such development to be “directly related to, or associated with, or supportive of operations at Manston Airport”. TDC considers this is too broad and could be argued to include development which either does not have a direct relationship to operations at the airport and/or which is not required to be located at Manston to support those operations.

The new definition narrows the airport-related development approved to be “directly related to and required to support operations” at Manston Airport, however Thanet District Council reiterates the need for the definition to state that the development in question also be “required to be located at Manston Airport to support those operations”.

18. The Secretary of State seeks the comments of the Applicant and other Interested Parties on the new requirement 21(4) for inclusion in any DCO that might be granted in due course. This would read:

“(4) No passenger air transport departures will take place between the hours of 20.00 and 21.00. There shall only be one passenger air transport arrival between the hours of 16.00 and 17.00; only two passenger air transport departures between the hours of 18.00 and 19.00; and only one passenger air transport departure between the hours of 19.00 and 20.00.”

Thanet District Council have responded to this in responses to fourth written questions (REP9-026) question TR4.6. Our previous response is provided below:

TDC will defer to the view of KCC Highways as the local highways authority as to whether it believes these further restrictions are required. TDC would support such restrictions should KCC and the ExA be satisfied that these are required in order to avoid unacceptable impacts on the highway network.

19. The Secretary of State seeks the views of the Applicant, MOD (The Defence Infrastructure Organisation) and other Interested Parties on the wording of new requirement 24 (High Resolution Direction Finder) for inclusion in any DCO that might be granted in due course:

“(1) No part of the authorised development is to commence until a detailed mitigation scheme to provide an alternate High Resolution Direction Finder, prepared by the undertaker and agreed in writing by the Ministry of Defence, has been submitted to, and approved in writing by, the relevant planning authority. The detailed mitigation scheme must include siting location(s) for the alternate High Resolution Direction Finder, full specification for the equipment and infrastructure proposed, the technical performance data necessary to establish safeguarding criteria to protect its subsequent operation and a timetable for its implementation.

“(2) The installation of the alternative High Resolution Direction Finder must be carried out in accordance with the scheme approved pursuant to sub-paragraph (1), unless otherwise agreed in writing by the Ministry of Defence and the relevant planning authority.

“(3) None of the authorised development is permitted to be constructed within the zone protected by the Ministry of Defence (Manston) Technical Site Direction 2017 while the safeguarding direction is in force without the consent of the Secretary of State for Defence.

“(4) No part of the authorised development is to commence unless and until a programme for the decommissioning and removal of the existing High Resolution Direction Finder, prepared by the undertaker and submitted to and agreed in writing by the Ministry of Defence, has been submitted to, and approved in writing by, the relevant planning authority. The decommissioning and removal of the existing High Resolution Definition Finder equipment must be carried out strictly in accordance with the details approved.”

Thanet District Council has no comments to make on this wording.

20. The Secretary of State seeks views from Network Rail and other Interested Parties on the new Protective Provisions at Annex C to this letter to be included in the draft DCO, if made.

Thanet District Council has no comments to make on this wording.

Late Representations

23. The Secretary of State invites the Applicant and other Interested Parties to submit any comments they have on two late representations from Five10Twelve Limited dated 17 October 2019 and 27 October 2019, which it states are an evidenced Rebuttal to the Applicant's Overall Need Case [REP11-013]. The representations are published alongside this letter.

24. The Secretary of State seeks views from Historic England, Kent County Council, Thanet District Council and other Interested Parties on the late representation from Five10Twelve Limited dated 1 November 2019, which is also published alongside this letter.

25. The Secretary of State invites the Applicant, York Aviation and the Civil Aviation Authority ("CAA") to submit any comments they have on the late representation from Five10Twelve Limited dated 19 December 2019 relating to correspondence it has received from the CAA. The Secretary of State also invites their comments on the late representation from Five10Twelve Limited dated 20 December 2019 relating to inconsistencies in the application. The representations are published alongside this letter.

26. The Secretary of State also invites comments from the Applicant and other Interested Parties on the late representation from Five10Twelve Limited dated 23 December 2019 relating to public cost and reputational risk, which is published alongside this letter.

27. The Secretary of State invites comments from the Applicant and other Interested Parties on the late representation from Mr Chris Lowe dated 6 January 2020 relating to air and noise emissions. The representation is published alongside this letter.

Thanet District Council has no comments to make on these submissions.

If further clarification is required then please do not hesitate to contact me on the information at the top of this letter.

Yours sincerely



Iain Livingstone
Planning Applications Manager
Thanet District Council